

H.J.R. 4, Proposing a constitutional amendment to authorize the issuance of additional bonds or obligations of the state for the veterans' land fund.

H.B. 126, Relating to revising Title 110B, Revised Civil Statutes of Texas, 1925, to conform to laws enacted by the 67th Legislature, Regular Session, and to make formal corrections.

H.B. 151, Relating to control of agricultural diseases and pests.

H.B. 138, Relating to the membership and election of the board of directors of the Ecletto Creek Watershed District.

H.B. 112, Relating to defects in indictments and informations.

H.B. 100, Relating to the authority of the Texas Department of Corrections to transfer land to the Texas Department of Public Safety.

H.B. 162, Relating to the composition of State Representative Districts 81, 83, and 86.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

ADJOURNMENT

On motion of Senator Mauzy the Senate at 2:08 o'clock p.m. adjourned until 2:45 o'clock p.m. today in order that the Senate might meet in Caucus.

FOURTEENTH DAY (Sunday, August 9, 1981)

The Senate met at 2:45 o'clock p.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Absent-excused: Santiesteban.

A quorum was announced present.

Senator J. E. (Buster) Brown offered the invocation.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Santiesteban was granted leave of absence for today on account of important business on motion of Senator Snelson.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 39 by Caperton Finance
Relating to corrections to Article III of the General Appropriations Act; increasing certain appropriations.

S.B. 40 by Parker Finance
Relating to property taxation of tangible personal property temporarily in this state.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 126, To Committee on State Affairs.
H.B. 112, To Committee on Jurisprudence.
H.B. 100, To Committee on State Affairs.
H.B. 151, To Committee on Natural Resources.
H.B. 138, To Committee on Natural Resources.
H.B. 122, To Committee on Finance.
H.J.R. 4, To Committee on State Affairs.

MESSAGE FROM THE GOVERNOR

The following messages from the Governor were read and were filed with the Secretary of the Senate.

Austin, Texas
August 7, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE; FIRST CALLED SESSION:

Pursuant to Article IV, Section 8, of the Texas Constitution, I hereby submit for consideration by the First Called Session of the 67th Legislature, now convened, in addition to the items I have previously submitted, the following:

1. A constitutional amendment authorizing the issuance of an additional \$250 million in bonds or obligations of the state for Veteran's Land Program, similar to **S.J.R. 1** and **H.J.R. 4**, already introduced.
2. Creation of the Gasoline and Alcohol Mixture Fund for the encouragement of gasohol production in Texas, similar to **S.B. 14**, and **H.B. 44**, already introduced.
3. Implementing legislation for the regulation and taxation of bingo games as requested by the people of Texas in passing the Constitutional amendment in November 1980. Proposed legislation has already been introduced as **H.B. 3** and **S.B. 29**.

4. Granting the Department of Public Safety the ability to enforce weight and dimension limits of certain vehicles inside city limits, to prevent a threatened loss of federal highway funds. **H.B. 134**, already introduced, deals with this.

5. Continuation of the State Board of Examiners of Licensed Psychotherapists and the regulation of Psychotherapists as contained in **S.B. 7** and **H.B. 133** already introduced.

6. Amendment of Title 110B, Revised Civil Statutes of Texas, 1925, which was enacted by the 67th Legislature at the Regular Session and is a nonsubstantive revision of laws governing public retirement systems, to incorporate into the revision without substantive change the laws on the same subject that were enacted at the Regular Session and to make necessary corrections to conform the revision to the laws that the revision repealed. **H.B. 126**, already introduced deals with this.

7. Consideration of matters dealing with the initial terms of additional justices of the Courts of Appeals.

8. Granting the Department of Corrections the ability to transfer land to the Department of Public Safety to construct a building, as contained in **H.B. 100** and **S.B. 31** already introduced.

9. Amendments to Title 122A, T-G, for the administration, enforcement, and collection of state inheritance and generation-skipping transfer taxes and the examination of property of a decedent's estate as contained in **HB 120**, already introduced.

10. Amendments to Article 28.01 Code of Criminal Procedure, relating to defects in indictments and informations, as contained in **H.B. 112**, already introduced.

11. Consideration of the availability of alcohol and other drug dependency coverage in group health insurance policies and other coverage as contained in **S.B. 26** and **H.B. 145** already introduced.

12. Consideration of appropriations for the following:

A. Making certain corrections to Article III of the General Appropriations Act, as contained in **H.B. 62**, already introduced.

B. Appropriation of funds for the operation of the Automated Information Systems Advisory Council as passed by **H.B. 1463** in the Regular Session. **HB 113**, already introduced deals with this.

C. Appropriation of funds authorized by the passage of **H.B. 1986** in the Regular Session **H.B. 159**.

D. Appropriation of funds for the Texas Southern University Excellence Fund. **H.B. 163**.

E. Amendments to Sec. 2, **H.B. 1623** of the Regular Session, relating to the disposition of funds collected or received by the state technical institutions as contained in **S.B. 15**, already introduced. **H.B. 161**.

F. Appropriation of \$216,000 to Southwest Texas State University for repairs to buildings caused by flood damage, as contained in **H.B. 147** already introduced.

G. Appropriation of \$121,000 to the Parks and Wildlife Department for repairs to the state fish hatchery at San Marcos caused by floods. **H.B. 153**, already introduced does this.

H. A supplemental appropriation to the Attorney General's office for the purpose of securing and maintaining leased office space as contained in **H.B. 142**, already introduced.

I. Appropriation of funds to the Industrial Commission to administer the Development Corporation Act as passed by **S.B. 978** in the Regular Session. **H.B. 156**, already introduced does this.

J. Appropriation of funds to the Agriculture Department for the control of agricultural diseases and pests such as the Mediterranean Fruit Fly. **H.B. 151** deals with this and has already been introduced.

13. Consideration of several technical corrections to **H.B. 960** passed in the Regular Session relating to the composition of several State Representative Districts.

Austin, Texas
August 8, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE; FIRST CALLED SESSION:

Pursuant to Article IV, Section 8, of the Texas Constitution, I hereby submit for consideration by the First Called Session of the 67th Legislature, now convened, these additional items:

1. Consideration of legislation amending Art. 8280-212, V.C.S. relating to the membership and election of the board of directors of the Ecletio Creek Watershed District. **H.B. 138** dealing with this has already been introduced.

2. Consideration of legislation amending Art. 4476-15 and 5561cc, V.C.S. relating to fees for certifying drug abuse treatment programs and fees for application and for inspection for licensure of alcohol treatment facilities or programs. **S.B. 35** on this subject has already been introduced.

Respectfully submitted,

William P. Clements, Jr.
Governor

CONFERENCE COMMITTEE ON HOUSE BILL 30

Senator Jones called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 30** and moved that the request be granted.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 30** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Chairman; Traeger, Harris, Brooks, Farabee.

SENATE CONCURRENT RESOLUTION 2 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 2, Granting George R. Brown permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 3 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 3, Granting Schaefer Diving Company permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 4 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 4, Granting Jose R. Villarreal permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 5 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 5, Granting Gwendolyn P. Johnson permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 6 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 6, Granting Estefana S. Peters permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 7 ON SECOND READING

On motion of Senator Mengden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 7, Granting Billy R. Williamson permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 8 ON SECOND READING

On motion of Senator Mengden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 8, Granting Mrs. Warthell Browne Iles permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 9 ON SECOND READING

On motion of Senator Mengden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 9, Granting Oiltanking of Texas, Inc., permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 10 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 10, Directing the Texas State Artist selection committee to work with the Texas Commission on the Arts to study alternative procedures for selecting the state artist.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 15 ON SECOND READING

On motion of Senator Sarpalius and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 15, Granting Lloyd Muennink permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 16 ON SECOND READING

On motion of Senator Sarpalius and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 16, Granting Billy M. Gillman permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 20 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 20, Granting Hanover Building Materials, Inc., permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 21 ON SECOND READING

On motion of Senator Snelson, for Senator Santiesteban, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 21, Granting Borsberry Construction Co., Inc., permission to sue the State.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 22 ON SECOND READING

On motion of Senator Richards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 22, Establishing a special committee to study the issues and concerns relating to public education in Texas.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 23 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 23, Requesting Phillips Petroleum Company to reconsider plans to construct a natural gas processing plant on New Year's Creek in Washington County.

The resolution was read second time and was adopted.

SENATE CONCURRENT RESOLUTION 25 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 25, Granting Haydie Marie Cook, and Samuel Edward Cook and Fort Worth National Bank permission to sue the State.

The resolution was read second time and was adopted.

SENATE BILL 26 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 26, Relating to the availability of alcohol and other drug dependency coverage in group health insurance policies and other coverage.

The bill was read second time and was passed to engrossment.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 26 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 26** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Leedom.

Absent-excused: Santiesteban.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 35 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 35, Relating to fees for certifying drug abuse treatment programs and treatment personnel and to fees for application and for inspection for licensure of alcohol treatment facilities or programs and to the use of such fees; making appropriations; amending Subsection (c), Section 5.12, Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), and Sections 3, 5, and 10, Chapter 553, Acts of the 65th Legislature, Regular Session, 1977 (Article 5561cc, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 35 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 35 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE BILL 7 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 7, Relating to continuation of the Texas State Board of Examiners of Licensed Psychotherapists, formerly known as the Texas State Board of Examiners in Social Psychotherapy, and regulation of psychotherapists, formerly known as social psychotherapists.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend Senate Bill No. 7 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. The Social Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SHORT TITLE. This Act may be cited as the Licensed [Social] Psychotherapist Regulation Act.

Sec. 2. DEFINITIONS. In this Act:

(1) A person represents himself to be a "licensed [social] psychotherapist" within the meaning of this Act if he states or implies he is a "licensed [social] psychotherapist," or uses the letters "L.P." ["S.P."] as part of his professional identification in conjunction with his name.

(2) The term "licensed psychotherapist" means a person who performs [social psychotherapy] includes acts or behaviors coming within the purview of the practice of [social] psychotherapy as defined in this Act.

(3) The practice of [social] psychotherapy means a service in which a special knowledge of social resources, human capabilities, and the part conscious and unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive emotional adjustments. The application of [social] psychotherapy includes, but is not restricted to, counseling and using applied psychotherapy [of a nonmedical nature] with individuals, families, and groups, and doing related research.

(4) "Psychotherapy," within the meaning of this Act, is the use of psychotherapeutic methods within a professional relationship to assist the person or persons to achieve a better emotional adaptation, to acquire greater realization of human potential and adaptation, to modify internal and external conditions that affect individuals or groups with respect to behavior, emotions, and thinking with respect to intrapersonal and interpersonal process.

(5) "Board" means the Texas State Board of Examiners of Licensed Psychotherapists [in Social Psychotherapy].

(6) "Department" means the Texas [State] Department of Health.

Sec. 3. PRACTICE OF MEDICINE NOT AUTHORIZED. Nothing in this Act permits the practice of medicine as defined by the laws of this state.

Sec. 4. STATE BOARD. (a) The Texas State Board of Examiners of Licensed Psychotherapists [in Social Psychotherapy] is created as an independent board within the administrative structure of the Texas Department of Health.

(b) The board consists of nine [six] qualified persons appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. A [Except for those members first appointed to the board, a] member is appointed for a term of six years, expiring January 31 of odd-numbered years. [The members of the first board shall be appointed within 90 days after this Act takes effect to serve the following terms: two for terms which expire on January 31, 1981, two for terms which expire January 31, 1979, and two for terms which expire January 31, 1977. Thereafter, at the expiration of the term of each member, the governor shall appoint a successor for each.]

Before entering on the duties of his office, each member of the board shall take the constitutional oath of office which shall be filed with the secretary of state.

(c) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the field of psychotherapy. A member or employee of the board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated field.

(d) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the board or act as the general counsel to the board.

Sec. 4a. APPLICATION OF OTHER ACTS. (a) The Texas State Board of Examiners of Licensed Psychotherapists [in Social Psychotherapy] is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993 [1981].

(b) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 5. QUALIFICATIONS OF MEMBERS OF THE BOARD.

(a) Each member of the board shall be a citizen of the United States[,] and a resident of this state.[,]

(b) Six of the nine members must have been licensed under this Act[,] and have been actively engaged in the practice of [social] psychotherapy for five years preceding their [his] appointment[, provided, however, that the members comprising the board as first appointed shall meet these requirements with the exception of being licensed under this Act]. To assure adequate representation of the diverse field of [social] psychotherapy, the governor shall appoint six members primarily engaged in rendering [social] psychotherapeutic services, three who provide such services as licensed psychotherapists [a social psychotherapist] in private practice; one licensed [social] psychotherapist who is engaged primarily in the administration of [social] psychotherapeutic services; one licensed [social] psychotherapist who is a member of the faculty of an accredited university training program whose graduates may be eligible for certification under the provisions of this Act; and one licensed [social] psychotherapist who is employed in a private or public agency.

(c) Three members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of psychotherapy;

(2) is licensed by an occupational regulatory agency in the field of health care;

(3) is employed by or participates in the management of a business entity or other organization that provides health care services or that sells, manufactures, or distributes health care supplies or equipment; or

(4) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that provides health care services or that sells, manufactures, or distributes health care supplies or equipment.

(d) A member of the board who has served a six-year term may not succeed himself. Any vacancy in the membership of the board occurring otherwise than by expiration of term shall be filled for the unexpired term by appointment of the governor.

(e) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a), (b), or (c) of this section for appointment to the board;

(2) does not maintain during his service on the board the qualifications required by Subsection (a), (b), or (c) of this section for appointment to the board;

(3) violates a prohibition established by Section 4(c) or (d) of this Act; or

(4) fails to attend at least half of the regularly scheduled meetings held by the board in a calendar year, excluding meetings held while the person was not a member of the board.

(f) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Sec. 6. PER DIEM; EXPENSES. Each member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as provided by the General Appropriations Act. ~~[A member of the board is not entitled to a salary for duties performed as a member of the board. A member is entitled to \$25 for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business, and is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties, as evidenced by vouchers approved by the executive secretary.]~~

Sec. 7. EXECUTIVE SECRETARY. (a) The executive secretary shall be an employee of the Texas [State] Department of Health; the board, after consulting the state commissioner of health, ~~[after consulting with the board,]~~ shall designate the employee to serve as executive secretary. The board may terminate the employment of the executive secretary after consulting the state commissioner of health.

(b) The executive secretary shall be the administrator of licensed psychotherapist ~~[social psychotherapy]~~ activities for the board. In addition to his other duties prescribed in this Act and by the Texas [State] Department of Health, the executive secretary shall:

(1) keep full and accurate minutes of all transactions and proceedings of the board;

(2) be the custodian of all of the files and records of the board;

(3) prepare and recommend to the board plans and procedures necessary to effectuate the purposes and objectives of this Act, including but not limited to rules and regulations, and proposals on administrative procedures not inconsistent with this Act;

(4) exercise general supervision over all persons employed by the Texas [State] Department of Health in the administration of this Act; ~~[and]~~

(5) be responsible for the investigation and documentation of complaints and for the presentation of formal complaints; ~~and~~

(6) maintain adequate fiscal information to monitor board revenues by the type of fee collected by the department for the board.

(c) The executive secretary, or his authorized representative, shall:

(1) attend all meetings of the board but is not entitled to vote; ~~[and]~~

(2) handle or arrange for the handling of the correspondence, make or arrange for the inspections and investigations, and obtain, assemble, or prepare the reports and data that the board may direct or authorize;

(3) develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job opening with the board in a nonentry level position; the intra-agency posting shall be made at least 10 days before any public posting is made; and

(4) develop a system of annual performance evaluations of the board's employees based on measurable job tasks; any merit pay authorized by the executive secretary shall be based on the system established under this subdivision.

Sec. 8. STAFF SERVICES. The ~~[basic personnel and]~~ necessary facilities as may be required to carry out the provisions of this Act shall be the ~~[personnel and]~~ facilities of the Texas ~~[State]~~ Department of Health ~~[acting as the agents of the board]~~. Personnel hired by the board to carry out this Act shall become employees of the department on employment. The board, after consulting the ~~[The]~~ department, may by agreement secure such services as it may deem necessary from any other departments and agencies of this state, may arrange for compensation for these services, and may employ and compensate, within appropriations available, the professional consultants, technical assistants, and employees on a full- or part-time basis necessary to carry out the provisions of this Act. The board may request, and on request is entitled to receive, the assistance of state educational institutions or other state agencies.

Sec. 9. ORGANIZATION, DUTIES, AND MEETINGS OF THE BOARD. (a) The board shall hold a regular annual meeting at which time a chairman and a vice-chairman shall be elected. Other regular meetings shall be held at the times that the rules of the board may provide but not less than two times a year. Special meetings may be held at the times that may be deemed necessary or advisable by the board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the board. The board may employ other persons it deems necessary or desirable to carry out the provisions of this Act. The board shall adopt and have an official seal.

(b) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

(c) Each written contract for services in this state of a licensed psychotherapist shall contain the name, mailing address, and telephone number of the board.

(d) There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees can be directed to the board.

(e) The board shall maintain an information file about each complaint filed with the board relating to a licensee. If a written complaint is filed with the board relating to a licensee, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(f) The board shall develop and adopt written rules describing the board's procedures in the receipt, investigation, and disposition of complaints.

(g) The board may recognize, prepare, or administer continuing education programs for licensees. Participation in the programs is voluntary.

Sec. 10. ENFORCEMENT PROCEEDINGS. The board, or the executive secretary when duly authorized, generally or specifically, by the board ~~[department]~~, may cause legal proceedings to be instituted in courts of

competent jurisdiction to compel compliance with the provisions of this Act or the rules, regulations, orders, variances, or other decisions of the board.

Sec. 11. RULEMAKING. (a) The board may~~, in accordance with the procedures in this section and subject to the approval of the State Board of Health,~~ make rules and regulations consistent with the general intent and purposes of this Act and amend any rule or regulation it makes.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committee's statements. ~~Before adopting, amending, or repealing rules or regulations, the board shall hold a public hearing. If the rule or regulation, or amendment or repeal, will have statewide effect, notice of the date, time, place, and purpose of the hearing shall be published one time at least 20 days prior to the scheduled date of the hearing in at least three newspapers whose combined circulation will, in the judgment of the board, give reasonable circulation throughout the state. If the rule or regulation, or amendment or repeal, will have effect in only a part of the state, the notice shall be published one time at least 10 days prior to the scheduled date of the hearing in a newspaper or newspapers having general circulation in the area or areas to be affected. The board shall also comply, as appropriate, with the requirements of Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes).~~

~~(c) Any person may appear and be heard at the hearing on any rules or regulations. The executive secretary shall record the names and addresses of the persons appearing. The executive secretary shall send written notice to any person heard or represented at the hearing or requesting notice of the action taken by the board.~~

~~(d) Before it becomes effective, a rule or regulation, or amendment or repeal, shall be approved in writing by at least four members of the board and approved by the State Department of Health and a certified copy filed with the secretary of state for the time specified in Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 6252-13, Vernon's Texas Civil Statutes).~~

Sec. 12. CONTENTS OF THE RULES. (a) The board is authorized to adopt rules and regulations~~, subject to the approval of the State Board of Health,~~ relating to the professional behavior and ethics of licensed psychotherapists ~~[the social psychotherapy profession]~~ and the qualifications and licensing of licensed ~~[social]~~ psychotherapists, consistent with the protection of the health and general welfare of the people.

(b) Each advertisement by a licensee soliciting or advertising business shall contain his company name and address and license number as they appear in the records of the board.

(c) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person. The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

Sec. 13. QUALIFICATION OF APPLICANT FOR EXAMINATION FOR LICENSING. An applicant is qualified to take the examination for licensing as a licensed ~~[social]~~ psychotherapist if:

(1) he presents evidence of having received a graduate ~~[master's]~~ degree based on a program of studies whose content was designed to develop skill and competence in the use of psychotherapeutic treatment methods as determined by the board with the degree being from a graduate school whose accreditation is reported by recognized reporting authorities on accreditation of graduate education as determined by the board ~~[accredited by the Council on Social Work Education or from a graduate school equivalent in both subject matter and extent of training for social psychotherapists which meets accreditation requirements of the board]~~;

(2) he has at least two years of full-time experience acceptable to the board subsequent to the granting of the graduate ~~[master's]~~ degree in the use of psychotherapeutic methods under the supervision of a licensed ~~[social]~~ psychotherapist or a person academically and professionally qualified to become licensed under this Act as determined by the board ~~[a person qualified to become licensed under this Act, except that if the applicant works in a geographical area where no licensed social psychotherapist is available to provide the supervision, he shall have two years of full-time experience subsequent to the granting of the master's degree acceptable to the board in the use of psychotherapeutic methods under the supervision of a licensed psychologist or a board-certified psychiatrist]; and~~

(3) ~~[he is at least 21 years of age;~~

~~[(4) he is a resident of this state; and~~

~~[(5) he is of good moral character.~~

Sec. 14. APPLICATIONS. Application for examination for the licensed psychotherapist ~~[social psychotherapy]~~ licensure shall be on the forms prescribed by the board. The board may require that the application be verified. The board shall establish an application fee to cover the costs of processing applications. The application ~~[licensing]~~ fee shall accompany the application.

Sec. 15. EVALUATION OF EXPERIENCE. In determining the acceptability of the applicant's professional experience, the board may require documentary evidence of the quality, scope, and nature of the applicant's experience the board deems necessary.

Sec. 16. EXAMINATIONS. (a) The board ~~[department]~~ shall administer examinations to qualified applicants for licensure at least once a year. The board ~~[with the approval of the State Board of Health,]~~ shall determine the subject matter, scope, and necessary scores for successful completion of the examinations. ~~[Written examinations may be supplemented by oral examinations.]~~

(b) The board shall establish an examination fee to cover the costs of development and administration of examinations. The examination fee shall accompany the application for examination.

(c) An applicant who fails his examination may be reexamined at a subsequent examination on payment of another examination fee. An applicant who fails his written examination has the right to review this examination and to have a full hearing.

(d) Within 30 days after the date a licensing examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination within two weeks after the date the board receives the results from

the testing service. If the notice of the examination results will be delayed for more than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.

(e) If requested in writing by a person who fails the licensing examination administered under this Act, the board shall furnish the person with an analysis of the person's performance on the examination.

Sec. 17. LICENSING. (a) A qualified applicant for licensing who has successfully passed the examination prescribed by the board and has paid the licensing fee may be issued a license to hold himself forth as a licensed [social] psychotherapist by the board.

(b) ~~[Until August 31, 1976, a person meeting the requirements of Section 13 of this Act and possessing the equivalent of the education and training requirements of that section as determined by the board, shall be issued a license on application.]~~

~~[(c)] The board may, on application and payment of the licensing fee, waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state or with which this state has a reciprocity agreement [license as a social psychotherapist a person who is licensed to practice social psychotherapy by another state, territory, or possession of the United States if the requirements of that state, territory, or possession for the license are the substantial equivalent of the requirements of this Act as determined by the board].~~

Sec. 18. LICENSES. (a) The board shall issue a license to each person whom it licenses as a licensed [social] psychotherapist. The license shall show the full name of the licensed [social] psychotherapist and his address and shall bear a serial number. The license shall be signed by the chairman and the secretary of the board under the seal of the board.

(b) ~~Licenses must be renewed annually [at least once every two years. Licenses expire on August 31 and are invalid thereafter unless renewed]. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on August 31 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable. The board shall notify each licensee of the impending expiration of the licensee's license not later than the 30th day before the expiration date and shall attempt to obtain from the licensee a signed statement confirming receipt of the notice.]~~

(c) Licensed [Social] psychotherapists desiring to renew a license and who have maintained the status required by the board to qualify for licenses shall

~~[(1)] pay the renewal fee for the license[; and~~

~~[(2)] if the board requires, give evidence that the social psychotherapist has participated in continuing education courses acceptable to the board toward the furthering of his professional development as a social psychotherapist].~~

(d) A person may renew his unexpired license by paying the required renewal fee to the board before the expiration date of the license. ~~[The board shall notify every person licensed under this Act of the amount of the renewal fee. This notice shall be mailed at least 60 days before the expiration of the license. Renewal may be made at any time during the months of July or August on application therefor by meeting the renewal requirements provided for in this Act. Failure to pay the renewal fee prior to September 1 shall not deprive a social psychotherapist of his right to renew his license, but the fee to be paid for renewal after August 31 shall be increased by 50 percent of the regular renewal fee.]~~

(e) If a person's license has been expired for not more than 90 days, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.

(f) If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(g) If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Sec. 19. EXEMPTIONS. Nothing in this Act restricts the activities of [the following; provided, however, no person shall state or imply that he is a "social psychotherapist" or use the letters "S.P." as part of his professional identification in conjunction with his name unless he is licensed under the provisions of this Act:

[1] a licensed physician, licensed psychologist, licensed attorney, social worker, lecturer, duly ordained priest, rabbi, minister of the gospel, Christian Science practitioner, or other licensed professional or ordained religious practitioner, or any other person not licensed under this Act. However, a person may not state or imply that he is a "licensed psychotherapist" or use the letters "L.P." as part of his professional identification in conjunction with his name unless he is licensed under this Act.];

[2] a person who is performing activities of a psychotherapeutic nature, provided that he is performing those activities as part of the duties for which he is employed or under contract, and the activities are performed solely within the confines or under the control and supervision of one exempt under Section 19(1) of this Act or the jurisdiction of the organization in which he is employed or under contract, and provided that he does not state or imply that he is licensed to practice social psychotherapy, and provided that he may not offer to engage in the practice of social psychotherapy to the public for a fee, monetary or otherwise, over and above the salary or fee he receives for the performance of his official duties with the organization in which he is employed, or under contract, unless he is licensed under this Act;

[3] a person engaging in activities of a psychotherapeutic nature who is employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or interns pursuing the course of study leading to a master's degree from a school accredited by the Council on Social Work Education, or working in a recognized training program, provided that these activities constitute a part of a supervised course of study and that the student is designated by a title such as social psychotherapy intern, social psychotherapy trainee, or other title clearly indicating the training status appropriate to his level of training; or

[4] a person from another state offering social psychotherapeutic services in this state; provided the services are performed for no more than five days in a calendar month, except that if the person meets the qualifications and requirements provided in this Act and resides in a state or territory of the United States, or foreign country, or province that does not grant a certification or license to practice social psychotherapy, he may offer social psychotherapeutic services in this state for a total of not more than 30 days in any calendar year without being licensed under this Act.]

Sec. 20. REFUSAL, REVOCATION, CANCELLATION, OR SUSPENSION OF LICENSE, PROBATION OR REPRIMAND OF LICENSEE. (a) The board [Texas State Board of Examiners in Social

~~Psychotherapy may cancel, revoke, or suspend]~~ shall refuse, suspend, revoke, or cancel a license, probate a suspension, or reprimand a licensee ~~[the license of any social psychotherapist]~~ on proof that ~~the person [the social psychotherapist]:~~

(1) ~~has been convicted of a felony or of a violation of the law involving moral turpitude by any court; or~~

(2) ~~has used drugs or intoxicating liquors to an extent that affects his professional competency [has the habit of intemperance or drug addiction such as the use of morphine, opium, cocaine, or other drugs having similar effects]; or~~

(3) ~~has been guilty of fraud or deceit in connection with his services rendered as a licensed [social] psychotherapist or in connection with application for license renewal; or~~

(4) ~~has aided or abetted a person, not a licensed [social] psychotherapist, in representing himself as a licensed [social] psychotherapist within this state; or~~

(5) ~~has violated this Act or a rule of the board [has been guilty of unprofessional conduct as defined by the rules established by the board; or~~

~~[(6) for any cause for which the board shall be authorized to refuse to admit persons to its examination].~~

(b) ~~If the board proposes to refuse a person's application for a license, to suspend, revoke, or cancel a person's license, to probate a suspension, or to reprimand a licensee, the person is entitled to a hearing before the board. Disciplinary proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). [Proceedings under this section shall be begun by filing charges with the Texas State Board of Examiners in Social Psychotherapy in writing and under oath. The charges may be made by any person. The chairman of the board shall set a time and place for hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least 30 days prior to the hearing date. When personal service is impossible, the board shall cause to be published, once a week for two successive weeks, a notice of the hearing in a newspaper published in the county wherein the respondent was last known to live and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of the hearing shall not be less than 30 days after the date of the last publication of the notice. At the hearing the respondent has the right to appear either personally, by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board. The board shall thereupon determine the charges on their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act are privileged.]~~

(c) ~~A person whose license has been cancelled, revoked, or suspended by the board may, within the appropriate time [30 days] after the making and entering of the order, appeal to a district court in the county of his residence, but the decision of the board may be enjoined or stayed only on application to the district court after notice to the board. An appeal of an action of the board is governed by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The proceeding on appeal is tried according to the substantial evidence rule; and the appeal shall be taken in a district court of the county in which the person whose license is involved resides. On application, the board may reissue a license to a person whose license has been cancelled or suspended, but the application may not be made until one year after the cancellation or revocation and shall be made in the manner and form as the board requires].~~

(d) The board may, by a majority vote, rule that the order revoking, cancelling, or suspending the licensed [social] psychotherapist's license be probated so long as the probationer conforms to the orders and rules the board may set out as the terms of probation. The board, at the time of probation, shall set out the period of time that shall constitute the probationary period.

(e) The board may at any time, while the probationer remains on probation, hold a hearing and by majority vote rescind the probation and enforce the board's original action in revoking, cancelling, or suspending the licensed [social] psychotherapist's license. The hearing to rescind the probation shall be called by the chairman of the board who shall cause to be issued a notice setting the time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or his counsel at least 30 days prior to the time set for the hearing. When personal service is impossible, the same provisions for service of process by publication in lieu of personal service as set out in Subsection (b) of this section apply. At the hearing the probationer has the right to appear either personally, by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board. The board shall determine the charges on the merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act are privileged. The order revoking or rescinding the probation is not subject to review or appeal.

Sec. 21. INJUNCTIONS. The board [department] may institute an action to enjoin the violation of any provisions of this Act. The action is in addition to any other action, proceeding, or remedy provided by law. The board shall be represented by the attorney general or a county or district attorney of this state.

Sec. 22. VIOLATIONS AND PROHIBITIONS UNDER THIS ACT. (a) No person, after one calendar year from the effective date of this Act, may represent himself to be a licensed [social] psychotherapist within this state without being licensed in accordance with the provisions of this Act.

(b) No licensed [social] psychotherapist may continue to practice as a licensed [social] psychotherapist without renewing his license as required by Section 18 of this Act [six months after expiration of his license].

(c) No person may represent himself as a licensed [social] psychotherapist, or use the letters "L.P." ["S.P."] as part of his professional identification in conjunction with his name, unless he is licensed under the provisions of this Act.

(d) No person licensed under the provisions of this Act may violate a rule or regulation promulgated by the Texas State Board of Examiners of Licensed Psychotherapists [in Social Psychotherapy].

Sec. 23. PENALTIES. A person who violates a provision of this Act, or a rule or regulation or other order of the board, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation.

Sec. 24. ENFORCEMENT. (a) When it appears that a person has violated or is violating or is threatening to violate any provision of this Act or any rule, regulation, or order of the board, then the board[-] or the executive secretary [~~when duly authorized by the department,~~] may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation, as the court may deem proper, or for both injunctive relief and civil penalty. On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, regulation, variance, or order of the board, the district court may grant the injunctive relief the facts warrant.

(b) At the request of the board~~[]~~ or the executive secretary ~~[when authorized by the department]~~, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty, as authorized in Subsection (a) of this section.

Sec. 25. REVENUE, RECEIPTS, AND DISBURSEMENTS. (a) The Texas ~~[State]~~ Department of Health shall receive and account for all money derived under this Act and shall pay the money weekly to the state treasurer who shall keep it in a separate fund to be known as the "Licensed ~~[Social]~~ Psychotherapist's Licensure Fund." The Texas ~~[State]~~ Department of Health may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this Act. The board shall ~~[State Department of Health may]~~ impose ~~[examination, license, and renewal]~~ fees~~[, in an amount fixed by]~~ with the approval of the Texas ~~[State]~~ Department of Health. The board ~~[State Department of Health]~~ shall fix the amount of the fees sufficient to meet the expenses of administering this Act without unnecessary surpluses. Surpluses, if any, are reserved for the use of the board ~~[State Department of Health]~~ in this program.

(b) During each fiscal biennium, the state auditor shall audit the financial transactions of the board and the department involving money received or disbursed under this Act. On or before January 1 of each year, the department shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed under this Act by the department during the preceding year.

Sec. 26. ANNUAL REPORT OF THE BOARD. Within 90 days after the close of each fiscal year, the board shall submit a report to the governor and the presiding officer of each house of the legislature concerning the work of the board during the preceding fiscal year.

SECTION 2. (a) A person holding office on the effective date of this Act as a member of the Texas State Board of Examiners of Licensed Psychotherapists, formerly known as the Texas State Board of Examiners in Social Psychotherapy, continues to hold the office for the term for which the member was originally appointed.

(b) The governor shall appoint to the board three initial public members. The governor shall designate one public member for a term expiring in 1983, one for a term expiring in 1985, and one for a term expiring in 1987.

SECTION 3. A rule adopted before the effective date of this Act by the Texas State Board of Examiners of Licensed Psychotherapists, formerly known as the Texas State Board of Examiners in Social Psychotherapy, that conflicts with the Licensed Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes), formerly known as the Social Psychotherapist Regulation Act, as amended by this Act, is void. Within 90 days after the effective date of this Act the board shall repeal the rule.

SECTION 4. A reference in the law of this state to:

(1) the Texas State Board of Examiners in Social Psychotherapy means the Texas State Board of Examiners of Licensed Psychotherapists;

(2) the Social Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes) means the Licensed Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes); and

(3) a licensed social psychotherapist means a licensed psychotherapist.

SECTION 5. Section 27, Social Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes), is repealed.

SECTION 6. (a) This Act takes effect September 1, 1981.

(b) The requirements of Sections 7(c)(3) and (4), Licensed Psychotherapist Regulation Act (Article 4512f, Vernon's Texas Civil Statutes), as added by this Act, that the executive secretary of the Texas State Board of Examiners of Licensed Psychotherapists develop a career ladder program and a system of annual performance evaluations, shall be implemented within a year of the effective date of this Act. The requirement of Section 7(c)(4) that merit pay is to be based on the system of annual performance evaluations shall be implemented within two years of the effective date of this Act.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted.

RECORD OF VOTE

Senator Howard asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

RECORD OF VOTES

Senators Howard and Doggett asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 7 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 7 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Vale, Williams, Wilson.

Nays: Doggett, Howard, Parker.

Absent: Uribe.

Absent-excused: Santiesteban.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Howard and Doggett asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 21 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 21, Relating to the boundaries, administration, and financing of the West Brazoria County Drainage District.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 21 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 21** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE BILL 28 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 28, Relating to creation, administration, powers, duties, operations, and financing of the Brazoria County Watershed Drainage District No. 3, the Brazoria County Watershed Drainage District No. 4, and the Brazoria County Watershed Drainage District No. 5; providing a civil penalty.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

Amend Senate Bill 28 by adding the words "subject to district taxation" following the word "district" on page 25 at line 21 of said bill.

The committee amendment was read and was adopted.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 28 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 28** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE BILL 12 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 12, To amend Section 7 of Chapter 33, Acts of the 57th Legislature, Third Called Session, 1962, as amended (Article 6081g-1, Vernon's Texas Civil Statutes) relating to Park Boards of Trustees of certain cities; and declaring an emergency.

The bill was read second time and was passed to engrossment.

SENATE BILL 12 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 12** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE BILL 15 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 15, Relating to the disposition of funds collected or received by state technical institutions.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend Sec. 2 contained in SECTION 1 of Senate Bill 15, First Called Session, by omitting the period after Credit Union Commission of Texas and adding the following:

“and does not include the San Antonio State Chest Hospital and the Harlingen State Chest Hospital to the extent that the fees and charges collected by each hospital for physician services are subject to the provisions of Section 6A of Article 3201a-3, Vernon’s Texas Civil Statutes.”

The amendment was read and was adopted.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 15 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 15 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE CONCURRENT RESOLUTION 24 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.C.R. 24, Granting Mr. and Mrs. H. J. “Doc” Blanchard permission to sue the State.

The resolution was read second time and was adopted.

HOUSE BILL ON FIRST READING

After suspending the provisions of Senate Resolution 256, adopted by the Senate in the Regular Session of the 67th Legislature, the following House Bill relating to redistricting was referred to a Senate committee.

H.B. 162, To Committee on State Affairs.

SENATE BILL 22 ON SECOND READING

On motion of Senator Richards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 22, Relating to the conveyance of certain state-owned real property in Fort Bend County, Texas.

The bill was read second time and was passed to engrossment.

SENATE BILL 22 ON THIRD READING

Senator Richards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 22** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Santiesteban.

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider the following bills today:

H.B. 100
H.J.R. 4
H.B. 126
H.B. 162

SENATE RULE 103 SUSPENDED

On motion of Senator Williams and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider the following bills today:

H.B. 151
H.B. 138

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider the following bills today:

H.B. 122
S.B. 39

RECESS

On motion of Senator Mauzy the Senate at 3:49 o'clock p.m. took recess until 5:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 5:00 o'clock p.m. and was called to order by the President.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Williams, Vice-Chairman, submitted the following report for the Committee on Natural Resources:

H.B. 151

H.B. 138

By unanimous consent, Senator Jones submitted the following report for the Committee on Finance:

S.B. 39 (Amended)

By unanimous consent, Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 162

S.B. 37

H.J.R. 4

H.B. 100

H.B. 126

S.B. 29

MESSAGE FROM THE HOUSE

House Chamber

August 9, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 42, Granting the city of San Diego permission to sue the state.

H.C.R. 43, Commending the San Antonio Police Department.

H.C.R. 38, Directing the Purchasing and General Services Commission to restore Capitol fence to original colors.

H.C.R. 44, Requesting a moratorium on increased assessment of livestock and poultry.

H.C.R. 45, Requesting the President, U.S. Department of Agriculture, and Texas Department of Agriculture to study the beef market.

S.C.R. 2, Granting George R. Brown permission to sue the state.

S.C.R. 22, Creating a special joint committee on public education.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 103 SUSPENDED

On motion of Senator Glasgow, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider H.B. 112 today by the following vote: Yeas 26, Nays 0.

Absent: Leedom, Parker, Richards, Uribe.

Absent-excused: Santiesteban.

**COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 1
ON SECOND READING**

Senator Jones moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.J.R. 1, Amending the constitution to repeal the state property tax for permanent improvements at institutions of higher education.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Wilson.

Nays: Andujar, Doggett, Mauzy, McKnight, Truan, Uribe, Vale, Williams.

Absent-excused: Santiesteban.

The resolution was read second time.

Senator Snelson offered the following amendment to the resolution:

Floor Amendment No. 1

Amend C.S.H.J.R. 1

By striking all below the resolving clause and substituting in lieu thereof the following:

SECTION 1. That Article VIII, Section 1-e, of the Texas Constitution be revised to read as follows:

Sec. 1-e. No State ad valorem taxes shall be levied on any property within this state for state purposes after December 31, 1981, except as provided by this constitution. A person is not required to pay state ad valorem taxes levied after December 31, 1979 and before January 1, 1982, but is not entitled to a refund for taxes paid.

SECTION 2. That Article VII, Section 17, of the Texas Constitution be revised to read as follows:

Sec. 17(a) All receipts from previously authorized state ad valorem taxes that have not been distributed by the comptroller of public accounts shall be

deposited in the higher education endowment fund established under this Section of this constitution.

(b) All receipts from previously authorized state ad valorem taxes that have been distributed by the Comptroller of Public Accounts under prior law may be expended by the institutions receiving them for the purposes established in subsection (i) of this section.

(c) Any previous appropriations made for the acquiring or constructing of buildings or other permanent improvements for institutions of higher education may not be held invalid as contrary to prior law, under this section.

(d) Beginning January 1, 1982, a state ad valorem tax is hereby levied on real property and tangible personal property of 3¢ on the \$100 assessed valuation. For the purposes of this tax, and any tax established pursuant to subsection (g) of this subsection, all property shall be assessed on the basis of 100 percent of its full market value. The legislature may provide a residence homestead exemption from these taxes not to exceed \$3000 and an additional residence homestead exemption for persons who are disabled, according to Section 1-b of Article VIII of this constitution, or 65 years of age or older, not to exceed \$5000.

(e) All or \$100 million of the tax established by subsection (d) collected each year, whichever amount is less, shall be distributed annually among the public senior colleges and universities and medical units eligible to share the receipts of the tax. All receipts from the tax collected for a year in excess of \$100 million shall be deposited in a special fund in the State Treasury to be known as the higher education endowment fund.

(f) The higher education endowment fund consists of (1) the receipts of the ad valorem taxes deposited pursuant to subsections (e) and (g) of this section, (2) all receipts from previously authorized state ad valorem taxes not distributed by the comptroller of public accounts under prior law, (3) revenue appropriated to the fund or dedicated to the fund by law, and (4) interest, dividends, and other income from the investment of the fund. The State Treasurer shall invest the higher education endowment fund in the manner provided by law for investment of the permanent school fund.

(g) When the balance of the higher education endowment fund reaches \$2 billion, the tax established in subsection (d) of this subsection is abolished effective January 1 of the following year. Beginning that year, and each year thereafter, the legislature may levy and provide for the collection of a state ad valorem tax not to exceed 3¢ on the \$100 assessed valuation of real property and tangible personal property. The proceeds of any such tax authorized by the legislature may in whole or part be distributed among the public senior colleges and universities and medical units eligible to share the receipts of the tax. Any portion of the proceeds of the tax not distributed to eligible institutions shall be deposited in the higher education endowment fund unless appropriated by the legislature for such other purposes as it may deem appropriate.

(h) As of January 1 of the year following the year in which the higher education endowment fund reaches \$2 billion, the distribution procedure described in subsection (e) shall no longer be effective. Beginning that year, and each year thereafter, ninety percent of the interest, dividends, and other income of the higher education endowment fund shall be distributed among the public senior colleges and universities and medical units eligible to share in the income of the fund. The remaining 10 percent of the income shall be deposited in and become a part of the higher education endowment fund. The distribution of income pursuant to this subdivision shall be in addition to any tax proceeds which may be distributed to eligible institutions pursuant to subsection (g).

(i) The tax proceeds and income distributed by this section may be used for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of existing buildings or other permanent improvements, and acquiring capital equipment and library books and library materials, at the following public institutions:

- (1) Texas Tech University at Lubbock;
- (2) North Texas State University at Denton;
- (3) Lamar University at Beaumont;
- (4) Texas A&I University at Kingsville;
- (5) Texas Woman's University at Denton;
- (6) Texas Southern University at Houston;
- (7) Midwestern State University at Wichita Falls;
- (8) The University of Houston Central Campus at Houston;
- (9) Pan American University at Edinburg;
- (10) East Texas State University at Commerce;
- (11) Sam Houston State University at Huntsville;
- (12) Southwest Texas State University at San Marcos;
- (13) West Texas State University at Canyon;
- (14) Stephen F. Austin State University at Nacogdoches;
- (15) Sul Ross State University at Alpine;
- (16) Angelo State University at San Angelo;
- (17) East Texas State University at Texarkana;
- (18) Texas College of Osteopathic Medicine at Fort Worth;
- (19) Pan American University at Brownsville;
- (20) Texas Tech University Health Sciences Center at Lubbock;
- (21) University of Houston Downtown College at Houston;
- (22) University of Houston at Clear Lake City;
- (23) University of Houston Victoria Center at Victoria;
- (24) Corpus Christi State University at Corpus Christi;
- (25) Laredo State University at Laredo.

The tax receipts and income distributed by this section may also be used to refund bonds or notes issued under this subsection.

(j) The governing Board of each institution authorized to participate in the allocation of the receipts of the taxes authorized by this section and the income of the higher education endowment fund may issue bonds and notes for any of the purposes set forth in subsection (i), and may pledge all or any part of such monies allocated to such institution to secure the payment of the principal and interest of such bonds or notes.

(k) The Texas legislature in regular session shall, in the year 1983, and every ten years thereafter, allocate by equitable formula the tax receipts designated for distribution in subsections (e) and (g) and the income from the higher education endowment fund designated for distribution in subsection (h) among the governing boards of the institutions then authorized to receive such monies. Such allocations shall be for ten year periods beginning September 1 of the year the legislature is directed by this subsection to allocate the fund. Should the legislature fail to establish such formula and allocate the tax receipts and income for any ten year period, a committee composed of the Governor, Lieutenant Governor, Speaker of the House of Representatives, State Comptroller of Public Accounts and State Treasurer shall determine by majority vote an equitable formula for allocation.

(l) An agency designated by the legislature shall develop for the use of the general academic institutions of higher education eligible to share in

the distribution of monies under this section a set of guidelines based upon professionally recognized or national standards relating to the determination of the need for acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair and rehabilitation of existing buildings or other permanent improvements and acquiring capital equipment and library books and library materials. Without the prior approval of the legislature or of such agency as may be authorized by the legislature to grant such approval, funds provided under this Section may not be used for the purpose of acquiring land either with or without permanent improvements or constructing and equipping buildings or other permanent improvements if such use would exceed the guidelines established under this subsection.

(m) Without the prior approval of the Legislature or an agency authorized by the Legislature to grant the approval, the proceeds of the bonds or notes issued under this Section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used for student housing, intercollegiate athletics or auxiliary enterprise operations.

(n) The bonds and notes issued under this section shall be payable solely out of the receipts of the tax created by this subsection and the income of the higher education endowment fund and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the Attorney General. Bonds approved by the Attorney General shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this Section.

(o) Other than the appropriations required in this section, the State systems and institutions of higher education designated to receive allocations of monies under this Section may not receive any funds from the State Treasury for acquiring land either with or without permanent improvements, for constructing and equipping buildings or other permanent improvements, or for major repair and rehabilitation of existing buildings or other permanent improvements, except:

(1) in the case of fire or natural disaster, the legislature may appropriate from the state treasury an amount sufficient to replace any uninsured loss so incurred; or

(2) by a two-thirds vote of the membership of each house the legislature may appropriate general revenue funds to such institutions if the need for appropriations is demonstrated; and

(3) the legislature may appropriate funds for nonacademic special research facilities of particular benefit to the state.

(p) This Section is self-enacting upon the issuance of the Governor's proclamation declaring the adoption of this amendment, and the State Property Tax Board, the State Comptroller of Public Accounts and State Treasurer shall do all things necessary to effectuate this Section. This Section does not impair any obligation created by the issuance of any bonds or notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest, in accordance with their terms. If the provisions of this Section conflict with any other provision of this Constitution, then the provisions of this Section shall prevail, notwithstanding any such conflicting provisions.

SECTION 3. This constitutional amendment shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition, "The Constitutional

amendment amending Article 7, Section 17, to repeal the existing 10¢ state ad valorem tax and to substitute an ad valorem tax of 3¢ per \$100 of appraised value to establish the higher education endowment fund.

The amendment was read.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 2

Amend the amendment to **C.S.H.J.R. 1, SECTION 2 (d)** by:

- 1) striking the words “real property and tangible personal” and substituting in lieu thereof the word “taxable” on line 25
- 2) striking the words “full market value” and substituting in lieu thereof “its value as provided by law” on line 27 on page 1 and line 1 on page 2 and
- 3) striking the words “real property and tangible personal” and substituting in lieu thereof the word “taxable” in subsection (g) on line 23 on page 2.

The amendment to the pending amendment was read and was adopted.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 3

Amend the amendment to **C.S.H.J.R. 1, SECTION 2** by striking the word “and” inserting the words “created by general law including” between the words “universities” and “medical” in the following places:

- 1) subsection (e)
- 2) subsection (g)
- 3) subsection (h)

The amendment to the pending amendment was read and was adopted.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 4

Amend the amendment to **C.S.H.J.R. 1, SECTION 2 (f)** by striking the words “The State Treasurer shall invest” and substituting in lieu thereof “The Legislature shall provide by law for the investment of.”

The amendment to the pending amendment was read and was adopted.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 5

Amend the amendment to **C.S.H.J.R. 1** by striking the words "the following public institutions" and the items numbered (1) through (25) and substituting the following in lieu thereof:

"public senior colleges and universities created by general law including medical units not included in the University of Texas System or the Texas A&M University System."

The amendment to the pending amendment was read.

On motion of Senator Farabee and by unanimous consent, the amendment to the pending amendment was withdrawn.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 6

Amend the amendment to **C.S.H.J.R. 1** by striking the words "the following public institutions" and substituting the following in lieu thereof the words "public senior institutions of higher education including but not limited to the following:"

The amendment to the pending amendment was read and was adopted.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 7

Amend the amendment to **C.S.H.J.R. 1, SECTION 2** by striking the last sentence of subsection (k)(1) and substituting the following in lieu thereof:

"The agency designated by the Legislature to develop the above described guidelines shall use the guidelines to review and approve projects for the acquisition of land or other permanent improvements, constructing and equipping buildings or other permanent improvements and major repair and rehabilitation of existing buildings or other permanent improvements and shall report biennially to the Legislature as to institutional adherence to the guidelines."

The amendment to the pending amendment was read.

Senator Snelson moved to table the amendment to the pending amendment.

The motion was lost by the following vote: Yeas 14, Nays 16.

Yeas: Blake, Brooks, Caperton, Glasgow, Harris, Kothmann, McKnight, Ogg, Parker, Short, Snelson, Traeger, Truan, Williams.

Nays: Andujar, Brown, Doggett, Farabee, Howard, Jones, Leedom, Mauzy, Meier, Mengden, Richards, Sarpalius, Travis, Uribe, Vale, Wilson.

Absent-excused: Santiesteban.

Senator Snelson offered the following substitute for the amendment to the pending amendment:

Floor Amendment No. 8

Substitute the following for Floor Amendment No. 7 by striking the last sentence of subsection (k)(1) and substituting the following in lieu thereof:

“The agency designated by the Legislature to develop the above described guidelines shall use the guidelines to review and approve projects for the acquisition of land or other permanent improvements, constructing and equipping buildings or other permanent improvements shall report biennially to the Legislature as to institutional adherence to the guidelines.”

The substitute for the amendment to the pending amendment was read.

On motion of Senator Snelson and by unanimous consent, the substitute for the amendment to the pending amendment was withdrawn.

Senator Snelson offered the following substitute for the amendment to the pending amendment:

Floor Amendment No. 9

Substitute the following for Floor Amendment No. 7

Amend the amendment to **C.S.H.J.R. 1, SECTION 2** by striking the last sentence of subsection (k)(1) and substituting the following in lieu thereof:

“The agency designated by the Legislature to develop the above described guidelines shall use the guidelines to review and approve projects for the acquisition of land or other permanent improvements, constructing and equipping buildings or other permanent improvements and shall report biennially to the Legislature as to institutional adherence to the guidelines.”

The substitute for the amendment to the pending amendment was read.

On motion of Senator Farabee, the substitute for the amendment to the pending amendment was tabled by the following vote: Yeas 15, Nays 14.

Yeas: Andujar, Brown, Doggett, Farabee, Howard, Jones, Kothmann, Leedom, Mauzy, Meier, Mengden, Richards, Travis, Vale, Wilson.

Nays: Blake, Brooks, Caperton, Glasgow, McKnight, Ogg, Parker, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Williams.

Absent: Harris.

Absent-excused: Santiesteban.

Question recurring on adoption of Floor Amendment No. 7 to the pending amendment, Floor Amendment No. 7 to the pending amendment was adopted by the following vote: Yeas 15, Nays 14.

Yeas: Andujar, Brown, Doggett, Farabee, Howard, Jones, Kothmann, Leedom, Mauzy, Meier, Mengden, Richards, Travis, Vale, Wilson.

Nays: Blake, Brooks, Caperton, Glasgow, McKnight, Ogg, Parker, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Williams.

Absent: Harris.

Absent-excused: Santiesteban.

(Senator Ogg in Chair)

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 10

Amend the amendment to **C.S.H.J.R. 1, SECTION 2** by striking the following words from subsection (m):

"Without the prior approval of the Legislature or an agency authorized by the Legislature to grant the approval," and substituting the following in lieu thereof: "Funds provided under this subsection and."

The amendment to the pending amendment was read and was adopted.

Senator Farabee offered the following amendment to the pending amendment:

Floor Amendment No. 11

Amend the amendment to **C.S.H.J.R. 1, SECTION 2 (g)** by adding the following sentence:

"The Legislature may not adjust the tax rate in such a manner as to impair the obligations created by outstanding bonds."

The amendment to the pending amendment was read and was adopted.

Senator Jones offered the following amendment to the pending amendment:

Floor Amendment No. 12

Amend the amendment to **C.S.H.J.R. 1, SECTION 2 (d)** by striking the last sentence and substituting the following in lieu thereof:

"The Legislature may provide a residence homestead exemption from this tax not to exceed forty percent (40%) for the years 1982 through 1984, thirty percent (30%) for the years 1985 through 1987, and twenty percent (20%) in 1988 and each subsequent year, and an additional residence homestead exemption for persons who are disabled, according to Section 1-b of this article, or 65 years of age or older not to exceed twenty percent (20%)."

The amendment to the pending amendment was read and was adopted.

(President in Chair)

Senator Jones offered the following amendment to the pending amendment:

Floor Amendment No. 13

Amend the amendment to C.S.H.J.R. 1, SECTION 2 (e) by striking it in its entirety and substituting the following in lieu thereof:

“(e) One-fourth (1/4) of the receipts of the tax established by this Section collected each year shall be distributed annually among the public senior colleges and universities and medical units eligible to benefit from the higher education endowment fund. One-fourth (1/4) of the receipts of the tax collected each year shall be held in an available fund in the State Treasury for appropriation by the Legislature for the purposes designated in this section. In the event the Legislature appropriates a portion of these funds to secure bonds and notes, the Comptroller of Public Accounts shall transfer the amount necessary for the payment of principal and interest from the funds held in the available fund. While any of the principal and interest on these bonds is outstanding and unpaid, there is appropriated by this Constitution, an amount sufficient to pay the principal and interest on the bonds that mature or become due during that fiscal year, less the amount transferred from the available fund for this purpose. The remaining one-half (1/2) of the receipts shall be deposited to the credit of a special fund in the State Treasury to be known as the higher education endowment fund.”

The amendment to the pending amendment was read.

On motion of Senator Snelson, the amendment to the pending amendment was tabled by the following vote: Yeas 21, Nays 9.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Harris, Howard, Kothmann, Mauzy, McKnight, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams.

Nays: Doggett, Farabee, Glasgow, Jones, Leedom, Meier, Mengden, Travis, Wilton.

Absent-excused: Santiesteban.

Senator Leedom offered the following amendment to the pending amendment:

Floor Amendment No. 14

Amend amendment to C.S.H.J.R. 1 as follows:

Strike Section 3 and substitute the following:

SECTION 3. (a) The constitutional amendment proposed by Section 1 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: “The constitutional amendment repealing the state property tax.”

(b) The constitutional amendment proposed by Section 2 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the

proposition: "The constitutional amendment levying a three-cent state property tax to support building programs at public senior colleges and universities that do not benefit from the Permanent University Fund."

The amendment to the pending amendment was read.

On motion of Senator Leedom and by unanimous consent, the amendment to the pending amendment was withdrawn.

Senator Leedom offered the following amendment to the pending amendment:

Floor Amendment No. 15

Amend amendment to C.S.H.J.R. 1 as follows:

Strike Section 3 and substitute the following:

SECTION 3. (a) The constitutional amendment proposed by Section 1 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment repealing the state property tax."

(b) The constitutional amendment proposed by Section 2 of this resolution shall be submitted to the voters at an election to be held on November 3, 1981. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment levying a three-cent state property tax per \$100 valuation to support building programs at public senior colleges and universities that are not a part of The Texas A&M University System or The University of Texas System."

The amendment to the pending amendment was read.

On motion of Senator Snelson, the amendment to the pending amendment was tabled by the following vote: Yeas 18, Nays 11.

Yeas: Blake, Brooks, Caperton, Glasgow, Harris, Howard, Kothmann, Mauzy, McKnight, Ogg, Parker, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams.

Nays: Andujar, Brown, Doggett, Farabee, Jones, Leedom, Meier, Mengden, Richards, Travis, Wilson.

Absent: Sarpalius.

Absent-excused: Santiesteban.

Question recurring on adoption of Floor Amendment No. 1 as amended, Floor Amendment No. 1 as amended was adopted by the following vote: Yeas 17, Nays 12.

Yeas: Blake, Brooks, Caperton, Doggett, Harris, Kothmann, Mauzy, McKnight, Ogg, Parker, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams.

Nays: Andujar, Brown, Farabee, Glasgow, Howard, Jones, Leedom, Meier, Mengden, Richards, Travis, Wilson.

Absent Sarpalius.

Absent-excused: Santiesteban.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The resolution as amended was passed to third reading by the following vote: Yeas 18, Nays 12.

Yeas: Blake, Brooks, Caperton, Doggett, Harris, Kothmann, Mauzy, McKnight, Ogg, Parker, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams.

Nays: Andujar, Brown, Farabee, Glasgow, Howard, Jones, Leedom, Meier, Mengden, Richards, Travis, Wilson.

Absent-excused: Santiesteban.

MESSAGE FROM THE HOUSE

House Chamber
August 9, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that all necessary rules suspended, and the Conference Committee Report on **H.B. 30** adopted by a vote of 103 Ayes, 23 Noes, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE REPORT HOUSE BILL 30

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
August 9, 1981

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 30** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JONES
HARRIS
FARABEE
TRAEGER
BROOKS
On the part of the Senate

SCHLUETER
PEVETO
DAVIS
POLK
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MEMORIAL RESOLUTIONS

S.C.R. 27 - By Farabee: Memorial resolution for the Honorable Will H. Scott.

S.C.R. 28 - By Doggett: Memorial resolution for The Reverend Mark Armen Jorjorian.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 166 - By Uribe, Truan: Expressing appreciation to Sergeant First Class Gary L. Owen and Specialist 5 Lawrence G. Shepard.

S.R. 167 - By Doggett: Expressing appreciation to Eldon K. Shipp, Sr., for his work with the students of Dripping Springs.

S.R. 169 - By Brooks: Extending welcome to Leslie Austin Edwards, "Honorary Page" for the day.

S.R. 170 - By Brown: Recognizing August 28, 1981, through August 30, 1981, as "The Great Texas Mosquito Festival" in Clute, Texas.

S.R. 171 - By Brown: Extending welcome to Eric Somerset Jones, his wife Brenda, and daughters Felicity and Christie.

S.R. 172 - By Brown: Commending Lawrence Vining Durland on his exceptional achievements.

ADJOURNMENT

On motion of Senator Mauzy the Senate at 7:23 o'clock p.m. adjourned until 9:00 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(August 5, 1981)

S.B. 5

Sent to Governor
(August 7, 1981)

S.C.R. 13**FIFTEENTH DAY**

(Monday, August 10, 1981)

The Senate met at 9:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale Williams, Wilson.

A quorum was announced present.

The Reverend Waldo Williams, Ebenezer Baptist Church, Austin, offered the invocation as follows:

Our Heavenly Father, we thank You for this most beautiful day You have given us. Your sun that shines by day, and the moon by night, and Your cooling breeze of life You have endowed us with, we are very thankful.

Thank You for Governor Clements, Jr., the head of this great Ship of State called Texas. Thank You for this legislative body of men and women, who make up this extra session of the legislature.

We pray You will bless them in their deliberations, guide their minds that they may all agree together on a common cause. We pray justice will prevail in all of their undertakings. Let justice flow like a mighty river from the lowest to the highest echelons of this great State. Bless them with wisdom and with knowledge, and with an understanding heart and mind, again, we say, Bless them.

In their undertaking may they be true to "Our God" and true to their native land. Please bless them in the Name of Jesus Christ, Our Lord and Saviour, forever and forever. And all of God's people said, Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
August 10, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 62, Relating to corrections to Article III of the General Appropriations Act.

H.B. 120, Relating to the administration, enforcement, and collection of state inheritance and generation-skipping transfer taxes and the examination of property of a decedent's estate.

H.B. 142, Relating to a supplemental appropriation to the attorney general's office for the purpose of securing and maintaining leased office space.

H.B. 147, Relating to an appropriation to Southwest Texas State University to repair or replace facilities and equipment destroyed or damaged by flood.

H.B. 153, Relating to an appropriation to the Parks and Wildlife Department for the purpose of fixing ponds and facilities at the San Marcos fish hatchery.

H.B. 156, Relating to an appropriation to the Industrial Commission to administer the Development Corporation Act of 1979, as amended.

H.B. 159, Relating to an appropriation to the Texas Sesquicentennial Museum Board to be used for planning and designing a museum.

S.B. 16, Relating to a tax increment financing for development and redevelopment of blighted areas and federally assisted new communities. (With amendment)

S.B. 17, Relating to the authority of cities and towns to encourage supervised improvements by property owners through property tax abatement incentives. (With amendment)

S.B. 26, Relating to the availability of alcohol and other drug dependency coverage in group health insurance policies and other coverage.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORT OF STANDING COMMITTEE

Senator McKnight submitted the following report for the Subcommittee on :
Nominations:

To be a Member of the SABINE RIVER COMPACT COMMISSION: David Cardner, Orange County.

To be a Member of the TEXAS COMMISSION ON ALCOHOLISM: Jim Clipson, Colorado County.

To be Members of the TEXAS COMMITTEE ON PURCHASES OF BLIND-MADE PRODUCTS AND SERVICES: Robert Vassallo, Travis County; Ray Vaughn, Travis County; Robert E. Flaherty, Travis County.

To be Members of the TEXAS INDUSTRIAL COMMISSION: John F. Sammons, Jr., Bell County; J. A. (Joe) Kloesel, Jr., Midland County.

To be a Member of the STATE COMMISSION ON JUDICIAL CONDUCT: Scott Taliaferro, Taylor County.

To be a Member of the BOARD OF REGENTS - NORTH TEXAS STATE UNIVERSITY: Mrs. Lucille G. Murchison, Dallas County.

To be a Member of the BOARD OF DIRECTORS - NUECES RIVER AUTHORITY: Joseph William Taylor, Zavala County.

To be Members of the RADIATION ADVISORY BOARD: Dr. James R. Sumpter, Harris County; George Riddle, Harris County; Dr. Dan Hightower, Brazos County; Edwin Allen Durham II, Nueces County.

To be a Member of the TEXAS REAL ESTATE COMMISSION: Mrs. Dale Cochran Wigley, Dallas County.

To be a Member of the BOARD OF DIRECTORS - STATE BAR OF TEXAS (Appointment by the Supreme Court of Texas): Mrs. Marie Weisberg Jaffe, Dallas County.

To be Members of the BOARD OF DIRECTORS - TRINITY RIVER AUTHORITY OF TEXAS: F. L. Thompson, Leon County; Edward Nash, Kaufman County.

To be a Member of the TEXAS WATER WELL DRILLERS BOARD: Walton O'Neil Loftis, Midland County.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, the following enrolled resolutions:

S.C.R. 22

S.C.R. 2

(Senator Snelson in Chair)

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 42, To Committee on Administration.
H.C.R. 38, To Committee on Administration.
H.C.R. 44, To Committee on Finance.
H.C.R. 45, To Committee on Natural Resources.
H.B. 120, To Committee on Finance.
H.B. 62, To Committee on Finance.
H.B. 159, To Committee on Finance.
H.B. 156, To Committee on Finance.
H.B. 153, To Committee on Finance.
H.B. 147, To Committee on Finance.
H.B. 142, To Committee on Finance.

SENATE RESOLUTION 174

Senator Travis offered the following resolution:

S.R. 174, Congratulating Beth Lutz on her splendid accomplishments in sports and in her studies.

The resolution was read and was adopted.

GUEST PRESENTED

Senator Travis was recognized and presented Miss Lutz to the Members of the Senate.

Miss Lutz expressed her appreciation to the Senate for this recognition.

AT EASE

The Presiding Officer (Senator Snelson in the Chair) at 9:20 o'clock a.m. announced the Senate would stand At Ease Subject to the Call of the Chair.

IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 9:23 o'clock a.m.

SENATE RULE 96(h) SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 96(h) was suspended as it relates to the Conference Committee Report on H.B. 30.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 30 ADOPTED

Senator Jones called from the President's table the Conference Committee Report on H.B. 30. (The Conference Committee Report having been filed with the Senate and read on Sunday, August 9, 1981.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 1.

Yeas: Andujar, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker,

Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Williams, Wilson.

Nays: Mauzy.

Absent: Blake, Brooks, Uribe, Vale.

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 16.

SENATE BILL 16 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 16 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Wolens

Amend S.B. 16 as follows:

- (1) On page 2, line 5, insert after "works or" the word "public".
- (2) On page 2, line 10, insert after "plan" the following:
, not pledge to secure payment of the tax increment bonds
- (3) On page 2, line 12, insert after "works or" the word "public".
- (4) On page 3, line 22, after "taxing unit" strike the remainder of Subsection (5) and substitute "refers to a taxing unit as defined by Section 1.04(12), Property Tax Code."
- (5) On page 5, line 20, and on page 6, line 5, strike "district" and substitute "zone".
- (6) On page 6, line 26, and on page 7, line 9, strike "assessed" and substitute "appraised".
- (7) On page 9, line 1, insert after "works or" the word "public".
- (8) On page 10, line 15, insert after "area or" the word "in".
- (9) On page 10, line 18, insert after "works or" the word "public".
- (10) On page 10, line 20, insert after "other" the word "public".
- (11) On page 11, line 17, strike "assessed" and substitute "appraised".
- (12) On page 11, strike Section 11 on lines 18-26 and renumber subsequent sections accordingly.
- (13) On page 12, line 9, insert after "zone." the following:
A city or town may provide in its contract with the owners or holders of the tax increment bonds that it will pay into the tax increment fund all or any part of the revenue or moneys produced or received as a result of the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the tax increment bonds and, if a city or town so agrees, the owners or holders of the tax increment bonds may have a lien or mortgage on any facility acquired, improved, or constructed with the proceeds of the tax increment bonds. Tax increment bonds issued pursuant to this Act shall be issued by ordinance of the city or town without any additional approval other than the approval of the Attorney General of the State of Texas.
- (14) On page 14, lines 16 and 22, strike "district" and substitute "zone".

(15) On page 15, line 14, insert after "ordinance" the following:
, but in any event the zone shall terminate at such time as all project costs and tax increment bonds, and the interest thereon, have been paid in full

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

SENATE RULE 74a SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 17.

SENATE BILL 17 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 17 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - Wolens

Amend S.B. 17 as follows:

(1) On page 1, line 24, insert after "town." the following:

Written agreements with property owners located within a reinvestment zone shall contain identical terms regarding the share of value of the property that is to be exempt from the taxation under the agreement and the duration of the exemption.

(2) On page 5, lines 3-4, strike "Subsection (d) of this section" and substitute "Section 4 of this Act".

(3) On page 5 and 6, strike Subsection (d) and substitute the following:

"SECTION 4. LIMITATIONS ON THE DESIGNATION OF AN AREA. (a) An area of a reinvestment zone for residential tax abatement or commercial-industrial tax abatement may be included in overlapping or coincidental residential and commercial-industrial zones. In that event, the zone in which the property should be considered for the purpose of execution of an agreement under this Act shall be determined by the comprehensive zoning ordinance, if any, of the city or town.

"(b) Designation of a zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements under this Act.

"(c) Property in a reinvestment zone that is owned or leased by a member of the governing body of the city or town by a member of a zoning or planning board or commission of the city or town is excluded from property tax abatement or tax increment financing.

"(d) In a city or town having a comprehensive zoning ordinance, an improvement, development, or redevelopment taking place pursuant to an agreement under Section 2 of this Act must conform to that comprehensive zoning ordinance.

(4) Renumber Sections 4 through 9 accordingly.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

SENATE RESOLUTION 65 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S.R. 65 Directing Natural Resources Committee to conduct an interim study on marine accretion and use of cybernetic architectural devices for coastal reef protection, erosion control and restoration and construction of wharves, piers, and other similar structures on state owned water bottoms.

The resolution was read second time and was adopted.

AT EASE

The President announced at 9:35 o'clock a.m. that the Senate would stand At Ease until 9:45 o'clock a.m. today.

IN LEGISLATIVE SESSION

The President called the Senate to order as In Legislative Session at 9:45 o'clock a.m.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

HOUSE BILL 126 ON SECOND READING

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 126, Relating to revising Title 110B, Revised Civil Statutes of Texas, 1925, to conform to laws enacted by the 67th Legislature, Regular Session, and to make formal corrections.

The bill was read second time and was passed to third reading.

HOUSE BILL 126 ON THIRD READING

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 126** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Short in Chair)

HOUSE BILL 162 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 162, Relating to composition of State Representative Districts 81, 83, and 86.

The bill was read second time and was passed to third reading.

HOUSE BILL 162 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 162** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 100 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 100, Relating to authority of the Texas Department of Corrections to transfer land to the Texas Department of Public Safety.

The bill was read second time and was passed to third reading.

HOUSE BILL 100 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 100** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(President in Chair)

HOUSE BILL 151 ON SECOND READING

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 151, Relating to control of agricultural diseases and pests.

The bill was read second time and was passed to third reading.

HOUSE BILL 151 ON THIRD READING

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 151** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 138 ON SECOND READING

On motion of Senator Wilson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 138, Relating to membership and election of Board of Directors of the Ecletto Creek Watershed District.

The bill was read second time and was passed to third reading.

HOUSE BILL 138 ON THIRD READING

Senator Wilson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 138** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE JOINT RESOLUTION 4 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 4, Proposing a constitutional amendment to authorize the issuance of additional bonds or obligations of the state for the Veterans' Land Fund.

The resolution was read second time and was passed to third reading.

HOUSE JOINT RESOLUTION 4 ON THIRD READING

Senator Williams moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.J.R. 4** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 173

Senator Short offered the following resolution:

S.R. 173, Honoring A. H. "Jim" Hooser on his impressive achievements in the field of education.

The resolution was read.

On motion of Senator Snelson and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Short and by unanimous consent, the resolution was considered immediately and was adopted.

GUEST PRESENTED

Senator Short was recognized and presented Mr. Hooser, seated in the gallery.

The Senate extended their appreciation to Mr. Hooser.

SENATE BILL 1 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 1** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Clayton

Amend **S.B. 1** by striking all below the enacting clause and substituting the following:

ARTICLE I

SECTION 1. The congressional districts of the state are composed respectively of the counties or parts of counties as described in Article II, and each district is entitled to elect one member to the House of Representatives of the Congress of the United States.

ARTICLE II

SECTION 1. District 1 is composed of Bowie, Camp, Cass, Cherokee, Delta, Franklin, Harrison, Henderson, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, San Augustine, Shelby, Titus, and Upshur counties, and that part of Hunt County included in enumeration districts 575, 576, 577, 578T, 578U, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 593, 594, and 595A.

SECTION 2. District 2 is composed of Anderson, Angelina, Hardin, Houston, Jasper, Liberty, Nacogdoches, Newton, Orange, Polk, Sabine, San Jacinto, Trinity, Tyler, and Walker counties, and that part of Montgomery County included in census tracts 901.01, 901.03, 907.02, 908.01, and 908.03, and that part of census tract 901.02 not included in District 8.

SECTION 3. District 3 is composed of that part of Collin County included in census tracts 313.02, 316.01, 316.02, 316.04, 316.07, 317, 318.01, 318.02, 318.03, 319, 320.01, and 320.02; and that part of Dallas County included in census tracts 72, 73.02, 74, 75.01, 75.02, 76.01, 76.02, 76.03, 76.04, 77, 78.01, 78.04, 78.05, 78.06, 78.07, 78.08, 78.09, 94, 95, 96.03, 96.04, 96.05, 96.06, 96.07, 96.08, 96.09, 97.01, 97.02, 98.01, 98.02, 99, 130.02, 130.03, 130.04, 131.01, 131.02, 131.03, 132, 133, 134.01, 134.02, 135, 136.01, 136.04, 136.05, 136.06, 136.07, 136.08, 136.09, 136.10, 137.01, 137.02, 137.04, 137.05, 137.06, 137.07, 137.08, 138.01, 138.02, 139, 140.01, 140.02, 141.01, 141.02, 141.03, 141.04, 142, 143.01, 143.02, 143.03, 143.04, 144.01, 144.02, 145, 146, 147, 149, 150, 152.01, 152.02, 153.02, 190.10, 190.11, 190.12, 191, 192.01, 192.02, 192.03, 192.04, 192.05, 192.06, and 192.07.

SECTION 4. District 4 is composed of Fannin, Grayson, Gregg, Kaufman, Rains, Rockwall, Smith, Van Zandt, and Wood counties; and that part of Collin County included in census tracts 301, 302, 309, 310, 311, 312, and 313.01, and block groups 1, 2, and 3 of census tract 308; and that part of Hunt County not included in District 1.

SECTION 5. District 5 is composed of that part of Dallas County included in census tracts 1, 2.01, 2.02, 3, 5, 6.01, 6.03, 6.04, 7.02, 11.01, 11.02, 12, 13.01, 14, 71.01, 73.01, 79.02, 79.03, 79.04, 79.05, 80, 81, 82, 83, 84, 85, 90.01, 90.02, 91.01, 91.02, 92.01, 92.02, 116.02, 117, 118, 119, 120, 121, 122.02, 122.03, 122.04, 122.05, 123, 124, 125, 126, 127, 128, 129, 167.02, 168, 169.02, 169.03, 169.04, 170, 171, 172, 173.01, 173.02, 174, 175, 176.01, 176.02, 177, 178.01, 178.03, 178.04, 178.05, 179, 180, 181.04, 181.05, 181.06, 181.07, 181.08, 181.09, 181.10, 181.11, 181.12, 181.13, 181.14, 181.15, 182.01, 182.02, 183, 184.01, 184.02, 184.03, 185.01, 185.02, 186, 187, 188.01, 188.02, 189, 190.03, 190.04, 190.06, 190.07, 190.08, 190.09, 190.13, 190.14, 190.15, 193.01, 193.02, 194, 195.01, 195.02, 196, 197, and 198.

SECTION 6. District 6 is composed of Brazos, Ellis, Freestone, Grimes, Hill, Hood, Johnson, Leon, Limestone, Madison, Navarro, and Robertson counties; that part of Dallas County included in census tracts 165.03, 165.05, 165.07, 166.02, 166.03, and 166.04; that part of Montgomery County included in census tracts 902.01, 902.02, 902.03, 902.04, 902.05, 902.06, 902.07, 903.01, 903.02, 904, 905, 906.01, 906.02, 906.03, 907.01, 907.03, 908.02, 909, 910, 911.01, 911.02, 912.01, and 912.02.

SECTION 7. District 7 is composed of that part of Harris County included in census tracts 406, 420.01, 420.02, 420.03, 421, 422.01, 422.02, 422.03, 422.04, 423.01, 436.02, 437.01, 437.02, 438.01, 438.02, 438.03, 438.04, 438.05, 438.06, 439.01, 439.02, 440.01, 440.02, 440.03, 440.04, 440.05, 440.06, 441.01, 441.02, 442.01, 442.02, 442.03, 442.04, 443.01, 443.02, 443.03, 443.04, 443.05, 443.06, 444.01, 444.02, 444.03, 444.04, 445.01, 445.02, 446.01, 446.02, 446.03, 447.01, 447.02, 447.03, 448, 449, 450, 451.01, 451.02, 452.01, 452.02, 517.01, 517.02, 517.03, 517.04, 517.05, 519.01, 519.03, 526.01, 526.02, 526.03, 526.04, 527.01, 527.02, 527.03, 528, 529.01, 536.01, 536.02, 537.01, 538.01, 538.02, 541, 542.01, 542.02, 543, 544, 545.01, 545.02, 546, 547, 548, 549, 550, 551.01, 551.02, 552, 553, 554, 555.01, 555.02, 556.02, 557, and 558.02.

SECTION 8. District 8 is composed of that part of Harris County included in census tracts 210.02, 211, 212, 213.01, 213.02, 214.02, 215.01, 215.02, 217.01, 217.02, 222.01, 223.01, 223.02, 223.03, 224.01, 224.02, 224.03, 224.04, 225.01, 225.02, 225.03, 225.04, 226.01, 226.02, 227, 228.01, 228.02, 229, 230.01, 230.02, 230.03, 230.04, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240.01, 240.02, 240.03, 241.01, 241.02, 241.03, 242, 243, 244.01, 244.02, 245.01, 245.02, 246, 247, 248, 249.01, 249.02, 249.03, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259.01, 259.02, 260, 261, 262, 263, 264, 265, 266, 267.01, 267.02, 267.03, 268,

269.01, 269.02, 270, 271, 272, 273, 274, 275, 521.01, 521.02, 521.03, 522.01, 522.02, 529.02, 530.01, 530.03, 532.01, 532.02, 533.01, 533.02, 533.03, 534.01, 535, 537.02, 539, 540.01, 540.02, 556.01, 558.01, 559.01, and 559.02; and that part of Montgomery County included in block group 9 and blocks 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 146, 147, 148, 149, 150, 151, 152, 154, 155, 158, 159, 160, 161, 162, 163, 164, 165, 166, and 167 of census tract 901.02.

SECTION 9. District 9 is composed of Chambers, Galveston, and Jefferson counties; and that part of Harris County included in census tracts 371.01, 371.02, 372, 373.01, 373.03, 373.04, 374, and 375.

SECTION 10. District 10 is composed of Bastrop, Blanco, Caldwell, Hays, and Travis counties; and that part of Burnet County included in enumeration districts 201, 202, 203, 204, 207, 209A, 209B, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222A, 222B, 222C, 222D, 222E, 222F, 222G, 222H, 223A, 223C, 224, and 225.

SECTION 11. District 11 is composed of Bell, Bosque, Brown, Coryell, Falls, Hamilton, Lampasas, McLennan, Milam, Mills, and San Saba counties; that part of Burnet County included in enumeration districts 200, 205, 206, 208, 210, 211, and 212; and that part of Williamson County included in census tracts 202, 203, 213, and 216.

SECTION 12. District 12 is composed of that part of Tarrant County included in census tracts 1001.01, 1001.02, 1002.01, 1002.02, 1003, 1004, 1005.01, 1005.02, 1006.01, 1006.02, 1007, 1008, 1009, 1010, 1011, 1012.01, 1012.02, 1013.02, 1014.01, 1014.02, 1014.03, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022.01, 1022.02, 1023.01, 1024.01, 1024.02, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036.01, 1036.02, 1037.01, 1037.02, 1038, 1039, 1040, 1041, 1043, 1044, 1045.01, 1045.02, 1045.03, 1046.01, 1046.02, 1046.03, 1046.04, 1046.05, 1047, 1048.01, 1048.02, 1049, 1050.01, 1050.04, 1051, 1052, 1053, 1058, 1059, 1060.01, 1060.02, 1060.03, 1061.01, 1061.02, 1062.01, 1062.02, 1063, 1064, 1065.01, 1066, 1067, 1101.01, 1101.02, 1102.01, 1102.02, 1103, 1104.01, 1104.02, 1105, 1106.01, 1106.02, 1107.01, 1107.02, 1108.01, 1108.02, 1111.01, 1111.02, 1112.02, 1114, 1132.03, 1132.04, 1132.05, 1132.06, 1133.01, 1133.02, 1134.03, 1134.04, 1134.05, 1134.06, 1136.06, 1136.07, 1136.08, 1138.01, 1138.02, 1139, 1140.01, 1140.02, 1141, 1142.01, and 1142.02.

SECTION 13. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Floyd, Foard, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Kent, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger counties.

SECTION 14. District 14 is composed of Aransas, Austin, Bee, Burleson, Calhoun, Colorado, DeWitt, Fayette, Goliad, Guadalupe, Jackson, Lavaca, Lee, Matagorda, Refugio, Victoria, Waller, Washington, and Wharton counties; that part of Brazoria County included in census tracts 617, 618, 619, and 620.01; that part of Gonzales County included in enumeration districts 225, 226, 227, 228, 231A, 232, 233, 234, 235T, 235U, 236, 237, 238T, 238U, 239, 240, 241, 242, 243A, and 243B; and that part of Williamson County included in census tracts 201, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, and 215.

SECTION 15. District 15 is composed of Cameron, Hidalgo, Starr, and Zapata counties.

SECTION 16. District 16 is composed of Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Reeves, Ward, and Winkler counties.

SECTION 17. District 17 is composed of Borden, Callahan, Coke, Coleman, Comanche, Concho, Crosby, Eastland, Erath, Fisher, Garza, Glasscock, Haskell, Howard, Jack, Jones, Lynn, Martin, Mitchell, Montague,

Nolan, Palo Pinto, Parker, Runnels, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Taylor, Throckmorton, Wise, and Young counties; and that part of Cooke County included in census tracts 9901, 9902, and 9903, and enumeration districts 326, 327, 329A, 330A, 331, 332, 333A, 333U, 334A, 334B, 334C, 334D, 334E, 334F, and 335.

SECTION 18. District 18 is composed of that part of Harris County included in census tracts 121, 201.01, 201.02, 202, 203.01, 203.02, 203.03, 204, 205.01, 205.02, 205.03, 206.01, 206.02, 207.01, 207.02, 207.03, 207.04, 208.01, 208.02, 208.03, 209, 210.01, 214.01, 215.03, 216.01, 216.02, 218.01, 218.02, 218.03, 218.04, 219, 220.01, 220.02, 221, 222.02, 300.22, 300.23, 300.24, 301.01, 301.02, 302, 303, 304.01, 304.02, 305.01, 305.02, 306, 307.01, 307.02, 308, 309.01, 309.02, 309.03, 310, 311, 312, 313.01, 314.01, 314.02, 315, 316.01, 317.02, 317.03, 317.04, 318.01, 318.04, 319.01, 319.02, 320.01, 325.01, 400.25, 400.26, 401.01, 401.02, 402.01, 402.02, 403, 404.01, 404.02, 405.01, 405.02, 501, 502, 503.01, 503.02, 504, 505.01, 505.02, 506.01, 506.02, 507.01, 507.02, 508, 509.01, 509.02, 509.03, 510, 511, 512, 513, 514.01, 514.02, 515.01, 515.02, 516.01, 516.02, 518.01, 518.02, 518.03, 519.02, 520.01, 520.02, 520.03, 523.01, 523.02, 523.03, 524, 525.01, 525.02, 525.03, 525.04, 530.02, 531.01, 531.02, 531.03, and 534.02.

SECTION 19. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Ector, Gaines, Hale, Hockley, Lamb, Lubbock, Farmer, Terry, and Yoakum counties.

SECTION 20. District 20 is composed of that part of Bexar County not included in District 21 or District 23.

SECTION 21. District 21 is composed of Bandera, Brewster, Comal, Crane, Crockett, Edwards, Gillespie, Irion, Kendall, Kerr, Kimble, Llano, McCulloch, Mason, Menard, Midland, Pecos, Presidio, Reagan, Real, Schleicher, Sutton, Terrell, Tom Green, Upton, and Val Verde counties; and that part of Bexar County included in census tracts 1203, 1204, 1206, 1207, 1208, 1209.01, 1210, 1211.02, 1212.01, 1212.02, 1810.01, 1811, 1812, 1818, 1908, 1911.01, 1911.02, 1912, 1913, 1914, 1915, 1916, and 1917, and blocks 319, 320, 321, 322, 323, 324, 325, 326, 327, and 328 of census tract 1909, and block group 1 and enumeration district 1303 of census tract 1918.

SECTION 22. District 22 is composed of Fort Bend County; that part of Brazoria County included in census tracts 601, 602.01, 602.02, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 620.02, 621, 622, 623, 624, 625.01, 625.02, 625.03, 626.01, 626.02, 627, 628, 629, 630, 631, and 632; and that part of Harris County included in census tracts 407.01, 407.02, 408, 409, 410, 411, 416.01, 416.02, 417.01, 417.02, 418.01, 418.02, 419.01, 419.02, 419.03, 419.04, 419.05, 419.06, 423.02, 423.03, 423.04, 423.05, 423.06, 423.07, 424.01, 424.02, 424.03, 424.04, 425.01, 425.02, 425.03, 425.04, 426.01, 426.02, 427.01, 427.02, 433, 434.01, 434.02, 435.01, 435.02, 436.01, and 436.03.

SECTION 23. District 23 is composed of Dimmit, Kinney, Maverick, Medina, Uvalde, Webb, and Zavala counties; and that part of Bexar County included in census tracts 1211.01, 1213, 1214, 1215, 1216.01, 1216.02, 1217, 1218, 1219, 1304, 1312, 1313, 1314, 1315, 1316.01, 1316.02, 1317, 1318, 1405, 1406, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1608, 1609, 1610, 1611, 1612, 1613, 1615, 1617, 1619, 1620, 1720, 1807, 1810.02, 1813, 1814, 1815, 1817.01, 1817.02, 1819, 1820, and 1821, block group 3 and blocks 207, 208, 209, and 210 of census tract 1311, blocks 101, 102, 103, 104, 105, 106, 107, 108, 109, 112, and 119 of census tract 1412, block group 2 and blocks 101, 104, 107, 108, 114, 115, 117, and 118 of census tract 1508, block groups 7 and 8, and blocks 502, 504, 505, 506, 507, 508, 518, 519, 521, 522, 523, 524, 525, 526, 527, 528, 616, 617, 618, 619, 620,

621, 622, 623, 624, and 625 of census tract 1511, blocks 911, 912, 914, 918, 920, 921, 925, 926, 927, and 928 of census tract 1618, block groups 3, 4, and 6, and enumeration district 1306A of census tract 1719, block group 3 and blocks 225, 226, 227, 228, and 229 of census tract 1816, and block group 3 and enumeration district 1302 of census tract 1918.

SECTION 24. District 24 is composed of that part of Dallas County included in census tracts 4.01, 4.02, 4.03, 7.01, 8, 9, 10, 13.02, 15.01, 15.02, 16, 17.01, 17.02, 18, 19, 20, 21, 22.01, 22.02, 23, 24, 25, 26, 27.01, 27.02, 28, 29, 30, 31.01, 31.02, 32.01, 32.02, 33, 34, 35, 36, 37, 38, 39.01, 39.02, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59.01, 59.02, 60.01, 60.02, 61, 62, 63.01, 63.02, 64, 65, 67, 68, 69, 71.02, 86.01, 86.02, 87.01, 87.03, 87.04, 87.05, 88.01, 88.02, 89, 93.01, 93.03, 93.04, 100, 101, 102, 103, 104, 105, 106, 107, 108.01, 108.02, 108.03, 109, 110.01, 110.02, 111.01, 111.02, 112, 113, 114.01, 114.02, 115, 116.01, 148.01, 148.02, 151, 153.01, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165.01, 165.02, 165.06, 166.01, 167.01, 169.01, and 199.

SECTION 25. District 25 is composed of that part of Harris County included in census tracts 313.02, 316.02, 317.01, 318.02, 318.03, 320.02, 320.03, 320.04, 321.01, 321.02, 321.03, 322.01, 322.02, 322.03, 322.04, 323.01, 323.02, 324.01, 324.02, 324.03, 324.04, 325.02, 326, 327.01, 327.02, 328.01, 328.02, 328.03, 329.01, 329.02, 329.03, 330.01, 330.02, 331, 332, 333, 334, 335.01, 335.02, 335.03, 336, 337, 338, 339.01, 339.02, 339.03, 340, 341, 342, 343.01, 343.02, 344, 345.01, 345.02, 346, 347.01, 347.02, 347.03, 347.04, 348.01, 348.02, 349.01, 349.02, 350.01, 350.02, 350.03, 350.04, 351, 352, 353.01, 353.02, 354, 355.01, 355.02, 356.01, 356.02, 356.03, 356.04, 357.01, 357.02, 357.03, 358.01, 358.02, 359.01, 359.02, 360.01, 360.02, 360.03, 360.04, 361, 362, 363, 364, 365.01, 365.02, 365.03, 366.01, 366.02, 367, 368.01, 368.02, 369, 370, 373.02, 412.01, 412.02, 413.01, 413.02, 413.03, 414.01, 414.02, 415.01, 415.02, 415.03, 415.04, 416.03, 416.04, 416.05, 428.01, 428.02, 429, 430.01, 430.02, 431, and 432.

SECTION 26. District 26 is composed of Denton County; that part of Collin County included in census tracts 303, 304, 305, 306, 307, 314, 315, 316.03, 316.05, and 316.06, and block groups 4, 5, and 6 of census tract 308; that part of Cooke County included in enumeration districts 325, 328, 336, 337, 338A, 338B, 339T, 339U, 340T, and 340U; and that part of Tarrant County included in census tracts 1013.01, 1023.02, 1042.01, 1042.02, 1054.01, 1054.03, 1054.04, 1055.01, 1055.02, 1055.03, 1055.04, 1056, 1057.01, 1057.02, 1065.02, 1065.03, 1065.04, 1065.05, 1108.03, 1109.01, 1109.02, 1110.01, 1110.03, 1110.04, 1112.01, 1113.01, 1113.02, 1115.03, 1115.04, 1115.05, 1115.06, 1115.07, 1115.08, 1115.09, 1115.10, 1130, 1131, 1135.03, 1135.04, 1135.05, 1135.06, 1136.03, 1136.04, 1136.05, 1137.01, 1137.02, 1216.01, 1216.04, 1216.05, 1216.06, 1216.07, 1217.01, 1217.02, 1218, 1219.01, 1219.02, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, and 1229.

SECTION 27. District 27 is composed of Atascosa, Brooks, Duval, Frio, Jim Hogg, Jim Wells, Karnes, Kenedy, Kleberg, La Salle, Live Oak, McMullen, Nueces, San Patricio, Willacy, and Wilson counties; and that part of Gonzales County included in enumeration districts 229, 230, and 231B.

ARTICLE III

SECTION 1. In this Act, "census tract," "census enumeration district," and "census county division" mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Twentieth Decennial Census of the United States, enumerated as of April 1, 1980. "Census block groups" are subdivisions of census tracts as

defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract. "Census blocks" are subdivisions of "census block groups" as defined on census metropolitan maps.

SECTION 2. Chapter 537, Acts of the 64th Legislature, 1975 (Article 197e, Vernon's Texas Civil Statutes), is repealed.

SECTION 3. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1982.

SECTION 4. It is the intention of the Texas Legislature that if any counties, census tracts, blocks, or other geographic areas have erroneously been left out of this bill, as amended, any court reviewing this legislation include such area in the appropriate district as accomplished by the Supreme Court of Texas in *Smith v. Patterson*, 111 Tex. 525, 242 S.W. 749 (1922).

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Question - Shall the Senate concur in the House amendment to S.B. 1?

SENATE RESOLUTION 182

Senator Brooks offered the following resolution:

WHEREAS, We are honored today to have as visitors in the Senate, over 200 blind individuals, parents of blind children, and advocates of blind persons representing: The American Council of the Blind of Texas; Randolph-Sheppard Vendors of Texas; Texas Association of American Workers for the Blind; Texas Chapter of American Association of Educators of the Visually Impaired; Texas Chapter of National Association of Parents of the Visually Impaired; Association for the Deaf-Blind; Texas Association for Retarded Citizens; Coalition of Texans with Disabilities; Texas Lions League; and the Texas Rehabilitation Association.

WHEREAS, We desire to welcome these distinguished visitors to the Capitol Building and Capital City; Now, therefore be it

RESOLVED, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted.

MESSAGE FROM THE HOUSE

House Chamber
August 10, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 8, Granting Zapata Warrior Constructors, Division of Zapata Constructors, Inc., permission to sue the state.

H.C.R. 11, Granting Fireman's Fund Insurance Company of California permission to sue the state.

H.C.R. 33, Requesting the DPS to withdraw its proposed amendment to DPS Rules Sec. 3.59, Rule 201.02.04.009.

H.C.R. 6, Urging state agencies to use Texas artists for design and artwork services.

H.C.R. 18, Congratulating the Sam Houston State University Lady Bearkat softball team.

H.C.R. 19, Congratulating the Sam Houston State University golf team.

H.C.R. 24, Honoring the city of Killeen on the 100th anniversary of its founding.

H.C.R. 31, Congratulating the Lubbock Monterey High School baseball team.

H.C.R. 32, Congratulating the Lubbock Estacado High School baseball team.

H.C.R. 41, Commending the employees of Continental Airlines.

S.C.R. 16, Granting Bill M. Gillman permission to sue the state.

S.C.R. 15, Granting Lloyd Muennink permission to sue the state.

S.C.R. 25, Granting Haydie Marie Cook, Samuel Edward Cook and Fort Worth National Bank permission to sue the state.

S.C.R. 20, Granting Tom Hanover, Isobel Hanover, and Hanover Building Materials, Inc., permission to sue the state.

S.C.R. 14, Honoring the Texas Longhorn and declaring the month of September 1981, as Texas Longhorn Cattle Month.

S.C.R. 19, In memory of Leo J. Leo.

S.C.R. 26, Expressing appreciation to the Texas Academy of Family Physicians, Texas Medical Association, Texas Department of Human Resources, James R. Sawyers, M.D., and Nurse Vera Taylor.

S.C.R. 23, Requesting Phillips Petroleum Co. to reconsider the building of a natural gas processing plant in Washington County.

S.C.R. 27, In memory of Will H. Scott, former member of the Texas House of Representatives.

S.C.R. 28, Memorial resolution for the Reverend Mark Armen Jorjorian.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1 WITH HOUSE AMENDMENT

The Senate resumed consideration of **S.B. 1** as amended by the House, with a motion by Senator Ogg that the Senate concur in the House amendment.

Question - Shall the Senate concur in the House amendment to **S.B. 1**?

Senator Farabee made the substitute motion that the Senate not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two houses on the bill.

The substitute motion was lost by the following vote: Yeas 15, Nays 16.

Yeas: Brooks, Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Parker, Santiesteban, Snelson, Truan, Uribe, Vale, Williams.

Nays: Andujar, Blake, Brown, Harris, Howard, Jones, Leedom, Meier, Mengden, Ogg, Richards, Sarpalius, Short, Traeger, Travis, Wilson.

Question recurring on the motion to concur in the House amendment to **S.B. 1**, the motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Andujar, Blake, Brooks, Brown, Harris, Howard, Jones, Leedom, Meier, Mengden, Ogg, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Wilson.

Nays: Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Parker, Santiesteban, Truan, Uribe, Vale, Williams.

MESSAGE FROM THE HOUSE

House Chamber
August 10, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.J.R. 8, Proposing a constitutional amendment authorizing cities, towns, and other taxing units to encourage the improvement or redevelopment of certain areas through property tax relief and through the issuance of bonds and notes.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE RESOLUTIONS ON FIRST READING

The following resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 33, To Committee on Administration.

H.C.R. 11, To Committee on Administration.

H.C.R. 8, To Committee on Administration.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider the following bills and resolution today:

H.B. 120

H.B. 62

H.B. 159

H.B. 156

H.B. 153

H.B. 147

H.B. 142

H.C.R. 44

RECESS

On motion of Senator Mauzy the Senate at 12:50 o'clock p.m. took recess until 4:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 4:00 o'clock p.m. and was called to order by the President.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Jones submitted the following report for the Committee on Finance:

H.C.R. 44

H.B. 62

H.B. 120

H.B. 142

H.B. 147

H.B. 153

H.B. 156

H.B. 159

C.S.H.B. 122 (Read first time)

By unanimous consent, Senator Snelson submitted the following report for the Committee on Education:

S.R. 163

SENATE RULE 103 SUSPENDED

On motion of Senator Blake and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider the following resolutions today:

H.C.R. 8
H.C.R. 33
H.C.R. 38
H.C.R. 42

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.B. 162
H.B. 151
H.B. 138
H.B. 100
H.J.R. 4
H.C.R. 43
H.C.R. 24
H.C.R. 13
H.C.R. 6
S.B. 1
S.B. 16
S.B. 17
S.B. 26
S.J.R. 8
S.C.R. 14
S.C.R. 15
S.C.R. 16
S.C.R. 19
S.C.R. 20
S.C.R. 23
S.C.R. 25
S.C.R. 26
S.C.R. 27

MESSAGE FROM THE HOUSE

House Chamber
August 10, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 1, WHEREAS, Mission Insurance Company is a California Corporation doing business in the State of Texas in accordance with the laws of the State of Texas;

H.C.R. 3, Whereas, Reliance Insurance Company is a Pennsylvania corporation that does business under and in accordance with the laws of the State of Texas,

H.B. 43, Relating to initial terms of additional justices of the courts of appeals.

H.B. 113, Relating to an appropriation for the operation of the Automated Information Systems Advisory Council.

S.B. 21, Relating to the board of directors of the West Brazoria County Drainage District.

S.B. 28, Relating to creation, administration, powers, duties, operations, and financing of the Brazoria County Watershed Drainage District No. 3, the Brazoria County Watershed Drainage District No. 4, and the Brazoria County Watershed Drainage District No. 5 providing a civil penalty. (With amendments)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.B. 113, To Committee on Finance.

H.B. 43, To Committee on Jurisprudence.

H.C.R. 3, To Committee on Administration.

H.C.R. 1, To Committee on Administration.

SENATE BILL 14 ON SECOND READING

Senator Sarpalius moved to suspend the regular order of business to take up for consideration at this time:

S.B. 14, Relating to the conservation of the mineral resources of this State; relating to the creation of a Gasoline and Alcohol Mixture Fund; providing for necessary transfers to such Fund; and providing for credits and payments with respect to the sale of the mixture of gasoline and alcohol.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Santiesteban, Sarpalius, Short, Snclson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Parker, Truan.

Absent: Richards.

The bill was read second time.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 14 by deleting Section 1 and substituting in lieu thereof the following:

SECTION 1. It is found by the legislature of this State to be in the public interest of the people of Texas to conserve its mineral resources. It is further found by the legislature of this State that the encouragement of the use of a gasoline and alcohol mixture meeting the specifications of this Act is in furtherance of the public interest. It is further found by the legislature of this State that the public interest of this State will be served by the creation of a Gasoline and Alcohol Mixture Fund, transferring moneys thereto, and providing for credits or payments in accordance with this Act. Accordingly, Chapter 153, Subchapter B, Title 2, Tax Code, is amended by adding thereto the following Section 153.123 which shall read as follows:

Sec. 153.123 Gasoline and Alcohol; Establishment of Fund; Claims and Payments.

(a) On or before the twenty-fifth day of each month, the Comptroller shall determine from appropriate reports prescribed by the Comptroller and furnished by distributors the prior month the number of gallons of the first sales or uses of a mixture of gasoline and alcohol which meets the specifications provided in Section 153.123(e) hereof and shall transfer from general revenues to a Gasoline and Alcohol Mixture Fund, which is hereby created, the following amounts:

(1) Until December 31, 1986, five cents per gallon on the first sale or use of such mixture.

(2) From January 1, 1987 until December 31, 1987, four cents per gallon on the first sale or use of such mixture.

(3) From January 1, 1988 until December 31, 1988, three cents per gallon on the first sale or use of such mixture.

(4) From January 1, 1989 until December 31, 1989, two cents per gallon on the first sale or use of such mixture.

(5) From January 1, 1990 until December 31, 1990, one cent per gallon on the first sale or use of such mixture.

(6) Upon January 1, 1991, transfers to this Gasoline and Alcohol Mixture Fund shall cease.

(b) On the effective date of this Act, the Comptroller shall estimate the amount of credit to be claimed within the subsequent sixty days and shall transfer such amount of money to the Gasoline and Alcohol Mixture Fund.

(c) A distributor required by this Subchapter to make and keep records of motor fuel sales, distributions, uses, or consumption and who is required to make reports to the Comptroller shall include separately in such records and reports, in such detail as the Comptroller shall prescribe, the sale, distribution, use or consumption of the gasoline and alcohol mixture defined in Section 153.123(e) hereof. Such records and reports shall include the amount of all alcohol manufactured or purchased as a motor fuel blending agent.

(d) A distributor may claim a credit on the first sale or use of the gasoline and alcohol mixture described in Section 153.123(e) hereof or upon the gasoline used for mixing with ethyl alcohol if the mixture meets the specifications described in Section 153.123(e) hereof, in the amount per gallon transferred to the Gasoline and Alcohol Mixture Fund as specified in Section 153.123(a) hereof. The distributor may take such credit on his monthly Texas gasoline

distribution report; thereafter, the Comptroller shall promptly transfer funds from the Gasoline and Alcohol Mixture Fund to the Highway Motor Fuel Tax Fund in the amount of any such credits allowed to distributors. If such claim is based upon gasoline used for mixing with ethyl alcohol, the Comptroller may require that the person making such claim shall include in the claim the total number of gallons of ethyl alcohol produced or purchased and not thereafter resold or distributed as ethyl alcohol and such other information deemed necessary. The forms to be used, the procedure therefor, and the time within which a claim for credit must be instituted shall be the same as that set forth for claims for refund of taxes provided in Section 153.120 and 153.121 of this Subchapter B, with such modifications thereof as the Comptroller may deem appropriate to accomplish the purposes hereof.

(e) The mixture of gasoline and alcohol for which transfers, credits or payments shall be made hereunder shall meet the following specifications:

(1) The mixture shall contain at least 10 percent ethyl alcohol; and

(2) the alcohol added to the gasoline shall have been at least 192 proof when added; and

(3) the alcohol added to the gasoline shall have been produced or distilled from a renewable source only; and

(4) the mixture shall contain no alcohol which was produced or distilled outside the state; provided, however, that if the Comptroller certifies that another state provides an exemption from that state's taxes applicable to gasoline or a credit or refund for taxes collected or an amount in lieu of taxes collected on a mixture of gasoline and alcohol, and if such other state's exemption, credit or refund allowance applies to a mixture that includes alcohol produced or distilled in Texas, and if the alcohol produced in such other state meets the other specifications of this Section 153.123(e), then the transfers to be made hereunder to the Gasoline and Alcohol Mixture Fund and the credit provided by this section for gasoline and alcohol shall apply to a mixture that includes alcohol produced or distilled only in that state or only in Texas and that state, to the extent of the amount of that state's exemption, credit, or refund (stated in or converted to cents per gallon) not to exceed the maximum transfers, credits or payments provided by this section.

The amendment was read.

Senator Truan offered the following substitute for the pending amendment:

Floor Amendment No. 2

Amend S.B. 14 by striking Section 1, renumbering Sections 2 and 3 as Sections 4 and 5, and adding Sections 1, 2, and 3 to read as follows:

SECTION 1. Chapter 153, Tax Code, is amended by adding Section 153.1045 to read as follows:

Sec. 153.1045. EXEMPTION AND REDUCED RATES FOR GASOLINE AND ALCOHOL. (a) A mixture of gasoline and alcohol that qualifies under Subsection (b) of this section is taxed at the rates provided by this section.

(b) A mixture of gasoline and alcohol qualifies for the exemption or reduced tax rates provided by this section only if:

(1) the mixture contains at least 10 percent ethyl alcohol;

(2) the mixture contains no alcohol that was produced or distilled outside the state except as provided in Subsection (d) of this section;

(3) the alcohol added to the gasoline was at least 192 proof when added; and

(4) the alcohol added to the gasoline was produced or distilled from a renewable source only.

(c) In this section, "renewable source" means agricultural or timber products, living matter, and other organic material, but does not include fossil fuels and other materials the supply of which cannot be replenished.

(d) If the comptroller certifies that another state provides an exemption from that state's taxes applicable to gasoline for a mixture of gasoline and alcohol which applies to a mixture that includes alcohol produced and distilled in Texas, then the exemption provided by this section for gasoline and alcohol applies to a mixture that includes alcohol produced or distilled only in that state or only in Texas and that state, to the extent of the amount of that state's exemption (stated in or converted to cents per gallon), not to exceed the maximum exemption provided by this section. The reciprocal exemptions authorized by this subsection do not apply unless that alcohol produced in the other state qualifies under Subdivisions (1), (3), and (4) of Subsection (b) of this section.

(e) Through December 31, 1986, the tax rate for a mixture of gasoline and alcohol is the rate provided by Section 153.102 of this code minus five cents.

(f) For the 1987 calendar year, the tax rate for a mixture of gasoline and alcohol is the rate provided by Section 153.102 of this code minus four cents.

(g) For the 1988 calendar year, the tax rate for a mixture of gasoline and alcohol is the rate provided by Section 153.102 of this code minus three cents.

(h) For the 1989 calendar year, the tax rate for a mixture of gasoline and alcohol is the rate provided by Section 153.102 of this code minus two cents.

(i) For the 1990 calendar year, the tax rate for a mixture of gasoline and alcohol is the rate provided by Section 153.102 of this code minus one cent.

(j) A person required by this chapter to make and keep records of motor fuel sales, distributions, uses, or consumptions or who is required to make reports to the comptroller is not relieved from including all alcohol and motor fuels, including the motor fuel qualifying for the exemption and reduced tax rates provided by this section, in the records and reports. The records and reports must include the amount of all alcohol manufactured or purchased as a motor fuel blending agent.

(k) This section expires January 1, 1991.

SECTION 2. Chapter 153, Tax Code, is amended by adding Section 153.1195 to read as follows:

Sec. 153.1195. REFUNDS FOR TAX PAID ON GASOLINE AND ALCOHOL. A person may file a refund claim for tax paid on the gasoline used for mixing with ethyl alcohol if the mixture meets the qualifications provided by Section 153.1045 of this code. A person making a claim must report the total number of gallons of ethyl alcohol produced or purchased and not thereafter resold or distributed as ethyl alcohol. The amount of the refund may not exceed the amount of the exemption or reduced tax rate provided by Section 153.1045 of this code. This section expires September 1, 1993.

SECTION 3. Section (f), Article 6674f, Revised Civil Statutes of Texas, 1925, as added by Section 14, H.B. 872, Acts of the 67th Legislature, Regular Session, 1981, is amended to read as follows:

(f) In the formula:

(1) "Amount" means the total yearly amount to be transferred from the general revenue fund to the state highway fund.

(2) "Cost index" means the factor determined under Subsection (g) of this section.

(3) "Dedicated revenue" means the revenue credited to the state highway fund under the following:

(A) Chapter 153, Tax Code [~~Chapters 9 and 20, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended~~];

(B) Article 6686, Revised Civil Statutes of Texas, 1925, as amended;

(C) Sections 1 through 16, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended (Article 6675a—1 et seq., Vernon's Texas Civil Statutes);

(D) Chapter 18, General Laws, Acts of the 41st Legislature, 5th Called Session, 1930, as amended (Article 6675a—6e, Vernon's Texas Civil Statutes);

(E) Section 2, Chapter 178, General Laws, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 6675a—13 1/2, Vernon's Texas Civil Statutes);

(F) Chapter 298, Acts of the 56th Legislature, Regular Session, 1959 (Article 6675a—5b, Vernon's Texas Civil Statutes);

(G) Chapter 456, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 6675a—6b, Vernon's Texas Civil Statutes);

(H) Chapter 517, Acts of the 58th Legislature, 1963, as amended (Article 6675a—6c, Vernon's Texas Civil Statutes);

(I) Chapter 707, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 6675a—6d, Vernon's Texas Civil Statutes); and

(J) Chapter 338, Acts of the 64th Legislature, 1975, as amended (Article 6675a—5e.1, Vernon's Texas Civil Statutes).

(4) In addition to the amounts determined under Subdivision (3) of this section, there shall be added to the amount of dedicated revenue three-fourths of the amount for each fiscal year of revenue not received by the state because of the application of the exemption and reduced rates on mixtures of gasoline and alcohol as provided by Section 153.1045, Tax Code. This amount shall be determined and certified by the Comptroller of Public Accounts.

The substitute for the pending amendment was read.

On motion of Senator Sarpalius, the substitute for the pending amendment was tabled by the following vote: Yeas 27, Nays 3.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, McKnight, Meier, Mengden, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Doggett, Mauzy, Truan.

Absent: Richards.

Question - Shall the pending amendment be adopted?

SENATE PAGES EXCUSED

On motion of Senator Mauzy and by unanimous consent, the Senate Pages were excused for the remainder of the day.

SENATE BILL 14 ON SECOND READING

The Senate resumed consideration of S.B. 14 on its second reading and passage to engrossment with an amendment by Senator Sarpalius pending.

Question - Shall the pending amendment be adopted?

The pending amendment was adopted.

On motion of Senator Sarpalius and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 14 ON THIRD READING

Senator Sarpalius moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 14** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Parker, Truan.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider H.B. 43 at 9:30 o'clock a.m. tomorrow.

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 1 ON THIRD READING

Senator Jones moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

C.S.H.J.R. 1, Amending the constitution to repeal the state property tax for permanent improvements at institutions of higher education.

Senator Snelson raised the Point of Order against consideration of the resolution, stating **C.S.H.J.R. 1** was not on today's Intent Calendar.

The President sustained the Point of Order, stating unanimous consent was necessary to suspend the provisions of Senate Resolution 98, as adopted by the Senate in the Regular Session of the 67th Legislature.

Having voted on the prevailing side, Senator Traeger moved to reconsider the vote by which **C.S.H.J.R. 1** was passed to third reading and the adoption of Senator Snelson's amendment to **C.S.H.J.R. 1** yesterday.

The motion to reconsider was lost by the following vote: Yeas 13, Nays 18.

Yeas: Andujar, Brown, Farabee, Glasgow, Howard, Jones, Leedom, Meier, Mengden, Richards, Traeger, Travis, Wilson.

Nays: Blake, Brooks, Caperton, Doggett, Harris, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Truan, Uribe, Vale, Williams.

SENATE BILL ON FIRST READING

On motion of Senator Brooks and by unanimous consent, the following bill was introduced, read first time and referred to the Committee indicated:

S.B. 41 by Brooks Finance
Relating to an appropriation to Texas Southern University.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider the following bills today:

H.B. 113
S.B. 41

SENATE RULE 74a SUSPENDED

On motion of Senator Brown and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to **S.B. 28**.

SENATE BILL 28 WITH HOUSE AMENDMENTS

Senator Brown called **S.B. 28** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1 - Benedict

Amend **S.B. 28** by striking all below the enacting clause and substituting the following: **SECTION 1. DEFINITIONS. In this Act:**

- (1) "District" means a district created under this Act.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of a board of a district.
- (4) "Plan" means a district drainage plan.
- (5) "Local government" means a county, city, town, district or authority created under Article III, Sections 52(b)(1) and (2), or Article XVI, Section 59, of the Texas Constitution, or any other political subdivision of this state.
- (6) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal entity.
- (7) "Department" means the Texas Department of Water Resources.
- (8) "Commissioners court" means the Commissioners Court of Brazoria County.

SECTION 2. CREATION OF DISTRICTS AUTHORIZED. On approval at the election held under Section 4 of this Act, the Brazoria County Watershed Drainage District No. 3, the Brazoria County Watershed Drainage District No. 4, and the Brazoria County Watershed Drainage District No. 5 are created pursuant to Article XVI, Section 59, of the Texas Constitution.

SECTION 3. BOUNDARIES OF DISTRICT. (a) The boundaries of the Brazoria County Watershed Drainage District No. 3 are as follows:

Beginning at the intersection of the North line of the Gulf, Colorado & Sante Fe Railroad right-of-way with the Brazoria-Galveston County line;

Thence, Southeasterly following the Brazoria-Galveston County line to its intersection with the shore line of West Bay;

Thence, Southwesterly following the Brazoria-Galveston line across West Bay to an inner corner of Brazoria County and a Westerly corner of Galveston County at or near San Luis Pass;

Thence, in a straight line to the North bank of Titlum Tatlum Bayou (which separates Mud Island from Tit Tat Island) at its mouth on the East shore line of Mud Island;

Thence, South across the mouth of said bayou to the Southerly bank thereof on the East shore line of Tit Tat Island;

Thence, following the Easterly, Southeasterly and Westerly shore lines of Tit Tat Island to the Westerly opening of Titlum Tatlum Bayou at the mouth of said bayou on the Southerly bank thereof;

Thence, Northerly across the mouth of said bayou to the Northerly bank thereof on the West shore line of Mud Island;

Thence, following the Westerly shore line of Mud Island to the Westerly opening of the old intra-coastal waterway (which old waterway crosses the Northerly tip of Mud Island) to the mouth of said waterway on the Easterly bank of said waterway;

Thence, Westerly across the mouth of said waterway to the Westerly bank thereof;

Thence, continuing along the Westerly shore line of Mud Island to the Easterly bank of the cut separating Mud Island from the mainland;

Thence, Westerly across the mouth of said cut to the Westerly bank thereof on the mainland;

Thence, following along the West Bank of said cut and the West & South banks of West Bay, Chocolate Bay and Chocolate Bayou in a Northwesterly direction to an intersection with the Southeastern line of Section #2, J. F. Perry and E. Austin Survey, Abstract #107, produced Southwesterly;

Thence, in a Northeasterly direction along the Southeastern line of Section #2, J. F. Perry and E. Austin Survey, Abstract #107, produced Southwesterly, to the center of Chocolate Bayou;

Thence, following the center line of Chocolate Bayou in a Northwesterly direction to an intersection with Abstract #11, Henry Austin Survey #2, Coastal Development Company Subdivision, beginning on the northeast corner of Tract #16;

Thence, proceeding Westerly along the North line of Lot 16, 15, 14, and 13 to the Southeast corner of Lot 7, Texas Colonization Co. Subdivision, then proceeding North to the Northeast corner of Lot 7;

Thence proceeding Westerly on the North line of Lot 7, 10, 15B, 15A, 18, 37, 36, 33, 32, 27, 31, 34, 39, to the South Texas Irrigation Canal;

Thence, in a Northwesterly direction following South Texas Water Company irrigation canal;

Thence, following the North line of Section 6, Abstract #533, (at which point said canal turns North), continuing to follow in a Westerly direction the

North line of Section 6, Abstract #533; Section 12, Abstract #536; Section 11, Abstract #327; Section 12, Abstract #44 to old State Highway 288;

Thence, following the old State Highway 288 in a Northerly direction along the Brazoria-Fort Bend County line to the Brazos River Authority Canal System "A";

Thence, following the Brazos River Authority Canal System "A" in an Easterly direction to County Road 89;

Thence, proceeding in a Southerly direction to the Northeast line of the E. Little Survey, Abstract #320;

Thence, proceeding in a Southeasterly direction to County Road 98, following said road to the Northwest corner of Tract 23A, Thomas Spraggins Survey, Abstract #366;

Thence, proceeding in a Westerly direction on the North line of Tracts 23A and 23; then South on the West line of Tract 23, Tract 1 and 2 of the Thaddeus M. Boggs Subdivision; Tracts 24, 25, 26, 27, and 28, to the Southeast corner of 29A, in Abstract #366;

Thence, proceeding in a Northeasterly direction along the Southeast line of Tract 29A;

Thence, proceeding in an Easterly direction on Tract 30 to County Road 99 on the Northwest line of Abstract #177 and the Southeast line of Abstract #366;

Thence, proceeding in a Westerly direction on County Road 99 to County Road 145;

Thence, proceeding in a Southeastern direction on County Road 145 to the Southeast corner of Tract 1B; then East on the Southeast line of Tracts 1B, 1, 3, 4, and 5 to County Road 541 in Abstract #177;

Thence, following County Road 541 in an Easterly direction to County Road 144;

Thence, proceeding along County Road 144 in an Easterly direction to the Brazos River Authority Canal System "A";

Thence, following the Brazos River Authority Canal System "A" in an Easterly direction to State Highway 35;

Thence, following State Highway 35 in a Northerly direction to County Road 133, proceeding in an Easterly direction to the Brazoria-Galveston County line;

Thence, in a Southerly and Southwesterly direction with said county line to its intersection with the North right-of-way line of the Gulf, Colorado & Santa Fe Railroad to the place of its beginning.

(b) The boundaries of the Brazoria County Watershed Drainage District No. 4 are as follows:

Beginning at the intersection of Brazoria County Road 133 with the Brazoria-Galveston County line;

Thence, proceeding North to the junction of the Brazoria-Galveston County line in the center of Clear Creek;

Thence, proceeding in a Westerly direction with Harris-Brazoria County line and Clear Creek, turning South on the Harris-Brazoria County line to the junction with Brazoria-Fort Bend County line;

Thence, Southerly with the Brazoria-Fort Bend County line to its junction with the Brazos River Authority Canal System "A";

Thence, following the Brazos River Authority Canal System "A" in an Easterly direction to County Road 89;

Thence, proceeding in a Southerly direction to the Northeast line of the E. Little Survey, Abstract #320;

Thence, proceeding in a Southeasterly direction to County Road 98, following said road to the Northwest corner of Tract 23A, Thomas Spraggins Survey, Abstract #366;

Thence, proceeding in a Westerly direction on the North line of Tracts 23A and 23; then South on the West line of Tract 23, Tracts 1 and 2 of the Thaddeus M. Boggs Subdivision; Tracts 24, 25, 26, 27, and 28 to the Southeast corner of Tract 29A in Abstract #366;

Thence, proceeding in a Northeasterly direction along the Southeast line of Tract 29A;

Thence, proceeding in an Easterly direction on Tract 30 to County Road 99 on the Northwest line of Abstract #177 and the Southeast line of Abstract #366;

Thence, proceeding in a Westerly direction on County Road 99 to County Road 145;

Thence, proceeding in a Southeastern direction on County Road 145 to the Southeast corner of Tract 1B; then East on the Southeast line of Tracts 1B, 1, 3, 4, and 5 to County Road 541 in Abstract #177;

Thence, following County Road 541 in an Easterly direction to County Road 144;

Thence, proceeding along County Road 144 in an Easterly direction to the Brazos River Authority Canal System "A";

Thence, following the Brazos River Authority Canal System "A" in an Easterly direction to State Highway 35;

Thence, following State Highway 35 in a Northerly direction to County Road 133, proceeding in an Easterly direction to the Brazoria-Galveston County line at the place of its beginning.

(c) The boundaries of the Brazoria County Watershed Drainage District No. 5 are as follows:

Beginning at a point at the Southeast corner of the I. F. W. Curd Survey, Abstract #170, on the Northerly line of Mud Island (on the corner of the mainland);

Thence, following along the West bank of said survey and the West and South banks of West Bay, Chocolate Bay and Chocolate Bayou in a Northwesterly direction to an intersection with the Southeastern line of Section #2, J. F. Perry and E. Austin Survey, Abstract #107, produced Southwesterly;

Thence, in a Northeasterly direction along the Southeastern line of Section #2, J. F. Perry and E. Austin Survey, Abstract #107, produced Southwesterly, to the center of Chocolate Bayou;

Thence, following the center line of Chocolate Bayou in a Northwesterly direction to an intersection with Abstract #11, Henry Austin Survey #2, Coastal Development Company Subdivision, beginning on the northeast corner of Tract #16;

Thence, proceeding Westerly along the North line of Lot 16, 15, 14, and 13 to the Southeast corner of Lot 7, Texas Colonization Co. Subdivision, then proceeding North to the Northeast corner of Lot 7;

Thence, proceeding Westerly on the North line of Lot 7, 10, 15B, 15A, 18, 37, 36, 33, 32, 27, 31, 34, 39, to the South Texas Irrigation Canal;

Thence, in a Northwesterly direction following South Texas Water Company irrigation canal;

Thence, following the North line of Section 6, Abstract #533, (at which point said canal turns North), continuing to follow in a Westerly direction to the North line of Section 6, Abstract #533; Section 12, Abstract #536; Section 11, Abstract #327; Section 12, Abstract #44 to old State Highway 288;

Thence, proceeding Southerly on old State Highway 288 to Farm-to-Market Road 521,

Thence, proceeding Southerly on Farm-to-Market Road 521 to the intersection with County Road 45,

Thence, proceeding in an Easterly direction on County Road 45 to the Henry Austin Survey, Abstract #14, following the Southwest line in a Southeasterly direction to the Southwest corner of Henry Austin Survey, Abstract #14,

Thence, proceeding along the South line in an Easterly direction of the Henry Austin survey to a point that intersects with Flores Bayou,

Thence, in a Southerly direction, following down the middle of Flores Bayou with its meanders to the mouth where it intersects with Austin Bayou,

Thence, following the center of Austin Bayou in a Southwesterly direction with its meanders to the mouth where it intersects with Bastrop Bayou,

Thence following down Bastrop Bayou with its meanders to the mouth where it intersects with Bastrop Bay,

Thence, proceeding in a Southerly and Easterly direction following the shoreline of Bastrop Bay to the I. F. W. Curd Survey, Abstract #170,

Thence, proceeding along the Southern line of the I. F. W. Curd Survey, Abstract #170, to the point of its beginning.

(d) No district created under this Act includes within its boundaries any part of Brazoria County Drainage District No. 2 (Valasco) or Brazoria County Drainage District No. 11.

SECTION 4. CONFIRMATION ELECTION. (a) The Commissioners Court of Brazoria County shall call an election to be held on November 3, 1981, within the boundaries of the three proposed districts designated by Section 2 of this Act to determine if the proposed districts will be created and boundaries of existing districts changed or existing districts dissolved.

(b) Notice of the confirmation election shall state the day and places for holding the election and the proposition to be voted on. The commissioners court shall publish the notice once in a newspaper of general circulation in the three proposed districts. The notice must be published at least 30 days before the date set for the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The creation of the Brazoria County Watershed Drainage District No. 3, the Brazoria County Watershed Drainage District No. 4, and the Brazoria County Watershed Drainage District No. 5, change of boundaries or dissolution of drainage districts within the boundaries of the proposed districts, and assumption of assets and liabilities of dissolved districts."

(d) Immediately after the confirmation election, the presiding judge of each polling place shall make returns of the result to the commissioners court, and the commissioners court shall canvass the returns and declare the result.

(e) If a majority of the votes cast at the election favor the creation of the districts, the commissioners court shall declare the districts created and shall enter the results in its minutes. If a majority of the votes cast at the election are against the creation of the districts, the commissioners court shall declare that the districts were defeated and shall enter the results in its minutes. The commissioners court shall also file a copy of the election results with the department.

(f) If a majority of the voters at the election approve the creation of the districts, the persons serving as commissioners of the Brazoria County Drainage District No. 4 become the initial directors of the Brazoria County Watershed Drainage District No. 4. The initial directors for the Brazoria County Watershed Drainage District No. 3 shall be the three persons serving as

commissioners of the Brazoria County Conservation and Reclamation District No. 3 on the effective date of the creation of the new district and the two persons residing within the boundaries of the new Brazoria County Watershed Drainage District No. 3 who are serving as commissioners of the Brazoria County Drainage District No. 5 on the effective date of the creation of the new district. The initial directors for the Brazoria County Watershed Drainage District No. 5 are the three persons serving as commissioners of the Brazoria County Drainage District No. 8 on the effective date of the new district, the commissioner of the Brazoria County Drainage District No. 5 who does not become a commissioner of the Brazoria County Watershed Drainage District No. 3, and one person who is a resident of the new district and who is selected by the commissioners court. Except as otherwise provided in this subsection, these initial directors shall hold office until the election of directors in April, 1983. The Brazoria County Watershed Drainage District No. 5 shall call and hold a directors election on the first Saturday in April in 1982 to elect two members to its board to fill two of the three director's positions held by persons from Brazoria County Drainage District No. 8. At the first director's meeting, the initial directors from Brazoria County Watershed Drainage District No. 5 shall draw lots to determine who shall hold office only until the election in 1982.

(g) If a majority of the voters at the election vote against the creation of the districts, another election to confirm creation of the districts may not be called and held by the commissioners court for at least 18 months following the most recent confirmation election. If the districts are not created within five years after adoption of this Act, this Act expires.

(h) The cost of an election held under this section shall be paid on a pro rata basis by the drainage districts that are located in whole or in part within the proposed districts. The commissioners court shall determine the pro rata share of the election costs for each drainage district and shall compute the pro rata shares so that the share for each drainage district is in the same ratio to the total amount of the election costs as the ratio of land in the drainage district to be located in a new district is to the total amount of land in all of the new districts combined.

SECTION 5. BOARD OF DIRECTORS. (a) The Brazoria County Watershed Drainage District No. 3 and the Brazoria County Watershed Drainage District No. 5 shall be governed by a board of directors composed of five members that are elected as provided by this Act.

(b) The Brazoria County Watershed Drainage District No. 4 shall be governed by a board of directors composed of three members that are elected as provided by this Act.

SECTION 6. QUALIFICATIONS OF DIRECTORS. To be qualified to serve as a director of any district, a person must be at least 18 years old on the date of the election and must be a resident of the district.

SECTION 7. TERM OF OFFICE. Except for the initial directors under Section 4(f) of this Act, a director shall hold office for a term of two years and until his successor is elected and has qualified.

SECTION 8. DIRECTORS' ELECTION. (a) Beginning in April, 1982, on the first Saturday in April of each year, an election shall be held in Brazoria County Watershed Drainage District No. 5 to elect the appropriate number of directors.

(b) Beginning in April, 1983, on the first Saturday in April of each odd-numbered year, an election shall be held in the Brazoria County Watershed Drainage District No. 3 and the Brazoria County Watershed Drainage District No. 4 to elect directors.

(c) A person who desires to have his name printed on the ballot at any directors' election as a candidate for election as a director shall file a petition with the secretary of the district at least 35 days before the date of the election.

(d) At the election of directors in 1983, directors of the Brazoria County Watershed Drainage District No. 3 shall be elected from the following positions and shall reside in the following areas:

- (1) position 1—a resident of Alvin;
- (2) position 2—a resident of the area formerly located in Brazoria County Drainage District No. 4 and Brazoria County Drainage District No. 5;
- (3) position 3—a resident of the area that is located outside the areas covered by positions 1 and 2;
- (4) position 4—a resident of the district; and
- (5) position 5—a resident of the district.

(e) Except for the initial directors, directors of the Brazoria County Watershed Drainage District No. 5 shall be elected from the following positions and shall reside in the following areas:

- (1) position 1—a resident of the area formerly located in Brazoria County Drainage District No. 8;
- (2) position 2—a resident of the area formerly located in Brazoria County Drainage District No. 8;
- (3) position 3—a resident of the area formerly located in Brazoria County Drainage District No. 5;
- (4) position 4—a resident of the area formerly located in Brazoria County Drainage District No. 5; and
- (5) position 5—a resident of the district.

(f) A person required by Subsection (d) of this section to reside in Alvin in order to serve on the board must reside in that part of Alvin located within the district, and a person required by Subsection (e) of this section to reside in the area formerly located in Brazoria County Drainage District No. 5 or Brazoria County Drainage District No. 8 in order to serve on the board must reside in that part of the area formerly located in Brazoria County Drainage District No. 5 or Brazoria County Drainage District No. 8 now located within the district.

(g) At the election of the directors in 1985 and at all subsequent directors' elections, directors of the Brazoria County Watershed Drainage District No. 3 shall run for office and shall be elected at large.

(h) At the first meeting of the board, the initial directors of the Brazoria County Watershed Drainage District No. 3 and the initial directors of the Brazoria County Watershed Drainage District No. 5 shall assign a position number for each member.

(i) A district may enter into agreements with school districts and other local governments in Brazoria County to share the cost of holding elections.

SECTION 9. VACANCY ON BOARD. A vacancy on the board shall be filled by appointment of the remaining members of the board for the unexpired term.

SECTION 10. OATH. Each director shall take the constitutional oath of office required of state officers.

SECTION 11. COMPENSATION. Each director is entitled to receive for his services not more than \$50 a day for each day he is actually engaged in his duties for the district.

SECTION 12. ORGANIZATION OF BOARD. (a) After creation of the districts and after each directors' election, the board shall meet at the district office and shall organize by electing officers.

(b) The members of a board shall select from their number at the first directors' meeting one person to serve as chairman, one person to serve as vice-chairman, and one person to serve as secretary.

(c) The chairman shall preside over meetings of the board, and in his absence, the vice-chairman shall preside.

(d) The chairman, vice-chairman, and secretary shall perform the duties and may exercise the powers specifically given them by this Act or by orders of the board.

SECTION 13. QUORUM. A majority of the members of the board constitutes a quorum for the transaction of business of the district, but no official action of the board is valid without the affirmative vote of a majority of the members of the board.

SECTION 14. OTHER DISTRICT OFFICERS. (a) Each board shall appoint persons to serve as treasurer and attorney for the district.

(b) A district may appoint a person to serve as tax collector for the district or may contract for the collection of taxes as provided by Chapter 6, Title 1, Tax Code.

(c) The persons appointed under this section are entitled to the compensation provided by the district's budget.

(d) The person appointed as treasurer shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the treasurer's duties. The district shall pay for the bond.

SECTION 15. GENERAL MANAGER. (a) The board shall employ a general manager who shall be the chief administrative officer of the district and may delegate to him full authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The general manager shall execute a bond in the amount determined by the board, payable to the district, conditioned on the faithful performance of the general manager's duties. The district shall pay for the bond.

(c) The general manager is entitled to receive the compensation provided in the district's budget.

SECTION 16. DISTRICT ENGINEER. (a) The board shall appoint a registered professional civil engineer for the district.

(b) The board shall employ necessary assistants to the district engineer to assist him in carrying out his powers and duties.

(c) The district engineer and his assistants are entitled to the compensation provided in the district's budget.

SECTION 17. PERSONNEL. (a) The general manager, with the approval of the board, shall employ other persons necessary for the proper handling of the business and operation of the district and may employ or contract with expert and specialized personnel who are necessary to carry out this Act.

(b) The board shall determine the terms of employment and the compensation to be paid to employees under this section.

(c) The general manager or a majority of the members of the board may dismiss an employee of the district.

(d) The board may require each employee or person under contract to the district who collects, pays, or handles any funds of the district to furnish a bond, payable to the district, for an amount sufficient to protect the district from financial loss resulting from actions of the employee or other person. Each bond shall be conditioned on the faithful performance of the employee's or person's duties and on accounting for all money and property of the district in his hands. The district shall pay for each bond.

SECTION 18. DISTRICT OFFICE. The board shall maintain an office in the district for conducting the business of the district.

SECTION 19. MEETINGS OF BOARD. The board shall hold regular meetings at the district office at least once each month on a date established by rule of the board and may hold special meetings at the call of the chairman as provided by rule.

SECTION 20. MINUTES AND RECORDS. (a) The board shall keep a complete written account of all its meetings and other proceedings, and shall preserve its minutes, contracts, records, plans, notices, accounts, receipts, and records of all kinds in a secure manner at the district office. The board is not required to preserve its minutes, contracts, records, plans, notices, accounts, receipts, and other records for a period of more than 10 years.

(b) Minutes, contracts, records, plans, notices, accounts, receipts, and other records are the property of the district and are subject to public inspection.

SECTION 21. CONTRACTS. The board may enter into contracts as provided by this Act, and those contracts shall be executed by the board in the name of the district.

SECTION 22. RULES. (a) After notice and hearing, the board may adopt rules to carry out this Act.

(b) The board shall adopt rules providing procedures for giving notice and holding hearings before the board.

SECTION 23. ASSISTANCE OF DEPARTMENT. On request of the board, the department shall provide assistance to the district in carrying out its powers and duties.

SECTION 24. SUPERVISION OF DISTRICTS. The districts created under this Act are subject to the continuing right of supervision of the state, to be exercised by the department under this Act and the Water Code.

SECTION 25. SUITS; PAYMENT OF JUDGMENTS. (a) The district may, through its board, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be had by serving the general manager.

(b) The courts of this state shall take judicial notice of the creation of the district.

(c) A court of this state that renders a money judgment against the district may require the board to pay the judgment from money in the district depository that is not dedicated to the payment of the principal of or interest on bonds of the district.

SECTION 26. SEAL. The board shall adopt a seal for the district.

SECTION 27. GENERAL POWERS. For the purpose of carrying out this Act, the district may:

(1) apply for, accept, receive, and administer gifts, grants, and other funds available from any source; and

(2) advise, consult, and cooperate with the federal government and its agencies, the state and its agencies, local governments, and private entities.

SECTION 28. DISTRICT DRAINAGE PLAN. (a) At the first meeting of the board after appointment of the district engineer, the board shall direct the district engineer to prepare a district drainage plan that will provide for control and abatement of excess water and reclamation and proper drainage of land in the district and, on completion, to file the plan with the board.

(b) In preparing the plan, the district engineer may exercise the powers and shall exercise the duties provided by Sections 56.022 and 56.023, Water Code.

(c) A copy of the completed plan shall also be submitted to the department for its comments.

(d) On approval of the district plan under Section 30 of this Act, it is not necessary for the owner of any tract of land in the district that is over 2,500 contiguous acres and that is owned by that same person at the time this Act takes effect, to seek changes in the plan or additional certificates to build additional facilities on that tract of land. In preparing the plan, the district engineer shall take into consideration proposed future facilities on that tract of land.

SECTION 29. NOTICE AND HEARING ON PLAN. (a) On receiving the plan, the board shall schedule a hearing to consider the adoption of the plan.

(b) At the hearing, any person who resides or owns property in the district may appear before the board and present testimony and evidence for or against all or any part of the plan.

SECTION 30. CHANGING AND APPROVING PLAN. (a) Within 10 days after a hearing under Section 29 of this Act, the board shall issue its findings and decision.

(b) If the board finds that the plan requires changes before it can be approved, the board's order shall direct the district engineer to make any changes in the plan the board considers necessary. The district engineer shall make any changes in the plan necessary to comply with the board's order and resubmit the plan to the board.

(c) The board may continue to order the district engineer to make changes in the plan until the board finds the plan acceptable.

(d) After the hearing under Section 29 of this Act, if the board finds that no changes are required in the plan or after the district engineer has made all necessary changes in the plan under Subsections (b) and (c) of this section, the board shall issue an order approving the plan.

SECTION 31. AMENDING PLAN. After notice and hearing, the board may amend the plan to make changes necessary to accomplish the purposes stated in Section 28(a) of this Act.

SECTION 32. IMPROVEMENTS TO BE CONSTRUCTED. Improvements included in the plan and adopted by the board shall be constructed.

SECTION 33. DISTRICT COOPERATION. Each of the districts shall cooperate with the other districts as far as possible to provide uniform programs and coordinated planning.

SECTION 34. DISTRICTS SUPERIOR IN DRAINAGE MATTERS. A district has primary jurisdiction over the area within its boundaries but outside the boundaries of any city or town over all matters affecting drainage of land within that area and may take any action necessary to assure compliance with the district's plan adopted under this Act.

SECTION 35. NOTICE OF ACTIVITIES AFFECTING DRAINAGE. (a) Any person who plans to engage in any activity that will alter or otherwise affect drainage of land within a district shall submit to the board written notice of the intent to engage in the activity together with plans, specifications, and other information relating to the activity.

(b) The notice, plans, specifications, and other information shall be submitted to the board in the form and manner and within the time provided by the district's rules.

SECTION 36. CONSIDERATION OF ACTIVITY BY DISTRICT ENGINEER. (a) On receiving the notice under Section 35 of this Act, the board shall submit the notice, plans, specifications, and other information to the district engineer for consideration.

(b) The district engineer shall examine the material and information to determine the effect of the proposed activities on drainage of land within the district and whether or not the proposed activity will be compatible with the plan.

(c) The district engineer shall consult with the person submitting the materials and information and shall seek agreement of that person to any changes in the proposed plans and specifications for the activity that will make them compatible with the plan.

(d) If the district engineer and the person proposing to engage in the activity agree to plans and specifications for the activity that are compatible with the district's plan as determined by the district engineer, the district engineer shall recommend to the board the issuance of a drainage certificate. If the district engineer and the person proposing to engage in the activity cannot agree, the district engineer shall recommend to the board that a drainage certificate not be issued. The district engineer's recommendation shall be included in a brief written report to the board stating the district engineer's reasons for his recommendation.

SECTION 37. BOARD CONSIDERATION AND ACTION. (a) On receiving the district engineer's report, the board may issue a drainage certificate without giving notice and holding a public hearing to consider the issuance.

(b) On consideration of the district engineer's report, if the board decides to deny issuance of a drainage certificate, it shall first give notice and hold a public hearing to consider the issuance of the certificate. Notice shall be given and the hearing held under procedures in the district's rules.

(c) Within 10 days after the conclusion of a hearing to consider issuance of a drainage certificate, the board shall issue a written decision issuing or denying the drainage certificate or issuing the drainage certificate subject to specific requirements of the board. The decision shall state the findings of the board in making the decision.

(d) If the board issues a decision denying a drainage certificate or issuing a drainage certificate subject to specific requirements, the person who is denied the certificate or who is issued a certificate subject to specific requirements may appeal the decision of the board to a district court in Brazoria County. The review of the decision on appeal shall be by trial de novo.

SECTION 38. CERTIFICATE REQUIRED. Except as provided by Section 39 of this Act, a person may not engage in any activity that will alter or otherwise affect drainage of land within a district without obtaining a drainage certificate from the board.

SECTION 39. EXEMPTIONS. After notice and hearing, a board may adopt a rule or issue an order that exempts any specified activity from the requirements of Sections 35 through 38 of this Act if the board finds that that activity will have a minimal impact or no impact on drainage as provided by the plan.

SECTION 40. REMOVAL OF OBSTRUCTIONS. (a) A person may not place an obstruction or construct or alter a structure on land in a district if the obstruction or structure is not compatible with the district's plan and no drainage certificate has been issued.

(b) After notice and hearing, the board may issue an order directing any person to remove an obstruction or structure or to make changes in an obstruction or structure to make it compatible with the plan.

(c) Members of the board and employees and agents of the district may enter land within the district to make inspections for the purpose of carrying out this section.

(d) If the drainage plan is changed after an obstruction is placed, constructed, or altered under a drainage certificate, the district may not direct removal or change of the obstruction to comply with the plan.

SECTION 41. INJUNCTIVE RELIEF. If a person engages in an activity that will alter or otherwise affect drainage within a district without a drainage certificate or if a person places an obstruction or constructs or alters a structure in violation of an order issued by the board under Section 40(b) of this Act, the board may have a suit brought in a district court in Brazoria County for injunctive relief to restrain the person from continuing or threatening to continue the violation and to require the person to remove any such obstruction or structure. The court shall include in any final order in favor of the district under this section an award to cover court costs and reasonable attorney's fees.

SECTION 42. CIVIL PENALTY. A person who violates Section 38 or 40 of this Act or any order issued by a board pursuant to Section 38 or 40 of this Act is subject to a civil penalty of not less than \$500 nor more than \$10,000 for each act of violation and for each day of violation.

SECTION 43. REGULATION OF STATE AGENCIES AND LOCAL GOVERNMENTS. (a) Except as provided by Section 34 of this Act, state agencies engaging in activities within a district and local governments located within a district shall comply with this Act and rules and orders adopted under this Act, and the board may require any state agency or local government to remove or alter obstructions or structures in the same manner as applies to private entities.

(b) This section does not apply to the Texas Department of Water Resources.

SECTION 44. ACQUISITION OF PROPERTY. The district may acquire by gift, grant, purchase, or condemnation any land, easements, rights-of-way, and other property interests necessary to construct district improvements and may acquire by purchase or lease a location for the district office.

SECTION 45. EMINENT DOMAIN. (a) The district may acquire land within Brazoria County for district improvements by condemnation when the board determines, after notice and hearing, that it is necessary.

(b) The right of eminent domain shall be exercised by the district in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that the district is not required to give bond for appeal or bond for costs in a condemnation suit or other suit to which it is a party and is not required to deposit double the amount of any award in any suit.

(c) If the district, in the exercise of the power of eminent domain, makes necessary the relocation, raising, lowering, rerouting, or changing in grade, or alteration of the construction of any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, lowering, rerouting, changing in grade, or alteration of construction shall be accomplished at the sole expense of the district. "Sole expense" means the actual cost of relocation, raising, lowering, rerouting, or changing in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

SECTION 46. BIDS. Construction contracts and any other contracts requiring an expenditure of more than \$10,000 may be made only after competitive bidding as provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes).

SECTION 47. PAYMENT FOR CONSTRUCTION WORK. (a) The district shall pay the contract price of construction contracts as provided by this section.

(b) The district may make progress payments under construction contracts monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer.

(c) If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the district engineer may authorize material delivered on the site and preparatory work done to be considered if the consideration is specifically authorized by the contract and if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by this contract.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, at its discretion may release to the contractor all or a portion of the excess amount.

(e) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract.

SECTION 48. CONTRACTOR'S BONDS. A contractor shall execute a performance bond and a payment bond in amounts determined by the board, payable to the board and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants in the contract and on payment to the district of damages sustained as a result of any default.

SECTION 49. SHARING COSTS OF PROJECTS WITH OTHER ENTITIES. A district may enter into a contract with the federal government or its agencies, the state or its agencies, or a local government within the county to share the cost of construction of any drainage project provided the project complies with requirements of the drainage plan.

SECTION 50. OTHER POWERS AND DUTIES. (a) In addition to the powers and duties specifically granted or imposed by this Act, the board and the district may exercise the powers and shall perform the duties provided by Sections 56.111, 56.112(a) and (b), 56.113, 56.114, 56.115, 56.116(a), (b), and (c), 56.120, 56.121, 56.126, 56.128, 56.130, 56.133, 56.134, 56.135, 56.140, 56.141, 56.142, and 56.143, Water Code. Any actions assigned to the commissioners court or the county judge under those specific sections shall be performed by the board.

(b) A district has and may exercise any of the powers of any drainage district incorporated in the district and dissolved on the creation of the district under this Act, and those powers are continued in effect for this purpose.

SECTION 51. GENERAL FISCAL PROVISIONS. Sections 54.301, 54.305, 54.307, 54.308, and 54.310, Water Code, apply to a district.

SECTION 52. ISSUANCE OF BONDS. Each district may issue bonds to provide the improvements authorized under this Act as provided by Sections 54.501 through 54.518, 54.520, and 54.521, Water Code. Section 54.5161, Water Code, does not apply to issuance of bonds of the district.

SECTION 53. TAXES. Each district may assess, levy, and collect ad valorem taxes on all property in the district to pay the principal of and interest on bonds issued by the district in the manner provided by the Tax Code and Chapter 56, Water Code.

SECTION 54. MAINTENANCE TAX. At the same time that taxes are levied to pay bonded indebtedness, the district shall assess, levy, and collect, as provided by the Tax Code, ad valorem taxes on all property in the district sufficient to maintain, repair, and preserve district improvements and to pay legal debts, demands, and obligations of the district.

SECTION 55. DISSOLUTION. A district created under this Act may be dissolved as provided by Subchapter H, Chapter 56, Water Code.

SECTION 56. TRANSITION. (a) Any drainage district wholly located within the boundaries of a district created under this Act is dissolved on the effective date of the creation of the district in which it is located.

(b) Any drainage district partially located within the boundaries of a district created under this Act is changed so that the part of the drainage district that is located within a district created under this Act is excluded from the original drainage district and becomes a part of the district created under this Act on the effective date of the creation of the districts under this Act.

(c) The affairs of the districts dissolved under this section and of the areas excluded from a drainage district under this section shall be handled in the manner provided by Sections 56.296 through 56.311, Water Code, to the extent that those sections can be made applicable.

(d) Included in the districts to be dissolved on creation of the watershed drainage districts under this Act are the Brazoria County Conservation and Reclamation District No. 3, Brazoria County Drainage District No. 4, Brazoria County Drainage District No. 5, and Brazoria County Drainage District No. 8.

SECTION 57. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2 - Benedict

Amend Amendment No. 1 to S.B. 28 by striking Section 4 and substituting the following:

SECTION 4. CONFIRMATION ELECTION. (a) The Commissioners Court of Brazoria County shall call an election to be held on November 3, 1981, within the boundaries of each of the three proposed districts designated by Section 2 of this Act to determine if each of the proposed districts will be created and boundaries of existing districts changed or existing districts dissolved.

(b) At a confirmation election called under this section, the commissioners court shall provide for holding the election in a manner that will allow the votes cast in each proposed district to be tabulated separately from the votes cast in the other proposed districts.

(c) Notice of the confirmation election shall state the day and places for holding the election and the proposition to be voted on. The commissioners court shall publish the notice once in a newspaper of general circulation in the three proposed districts. The notice must be published at least 30 days before the date set for the election.

(d) The ballots for the election in each district shall be printed to provide for voting for or against the proposition: "The creation of the Brazoria County Watershed Drainage District No. ____ (Insert appropriate district number), change of boundaries or dissolution of drainage districts within the boundaries of the proposed districts, and assumption of assets and liabilities of dissolved districts."

(e) Immediately after the confirmation election, the presiding judge of each polling place shall make returns of the result to the commissioners court, and the commissioners court shall canvass the returns and declare the result in each district. The votes cast in the election in each proposed district shall be tabulated separately from the votes cast in the other proposed districts.

(f) If a majority of the votes cast at the election favor the creation of a district, the commissioners court shall declare the district created and shall enter the result in its minutes. If a majority of the votes cast at the election are against the creation of a district, the commissioners court shall declare that the district was defeated and shall enter the result in its minutes. The commissioners court shall also file a copy of the election results with the department.

(g) On creation, the persons serving as commissioners of the Brazoria County Drainage District No. 4 become the initial directors of the Brazoria County Watershed Drainage District No. 4. The initial directors for the Brazoria County Watershed Drainage District No. 3 on its creation shall be the three persons serving as commissioners of the Brazoria County Conservation and Reclamation District No. 3 on the effective date of the creation of the new district and the two persons residing within the boundaries of the new Brazoria County Watershed Drainage District No. 3 who are serving as commissioners of the Brazoria County Drainage District No. 5 on the effective date of the creation of the new district. The initial directors for the Brazoria County Watershed Drainage District No. 5 on its creation are the three persons serving as commissioners of the Brazoria County Drainage District No. 8 on the effective date of the new district, the commissioner of the Brazoria County Drainage District No. 5 who does not become a commissioner of the Brazoria County Watershed Drainage District No. 3, and one person who is a resident of the new district and who is selected by the commissioners court. Except as otherwise provided in this subsection, initial directors shall hold office until the election of directors in April, 1983. If created, the Brazoria County Watershed Drainage District No. 5 shall call and hold a directors election on the first Saturday in April in 1982 to elect two members to its board to fill two of the three director's positions held by persons from Brazoria County Drainage District No. 8. At the first director's meeting, the initial directors from Brazoria County Watershed Drainage District No. 5 shall draw lots to determine who shall hold office only until the election in 1982.

(h) If a majority of the voters at the election in a particular proposed district vote against the creation of the district, another election to confirm creation of that district may not be called and held by the commissioners court for at least 18 months following the most recent confirmation election. If no districts are created under this Act within five years after its adoption, this Act expires.

(i) The cost of an election held under this section shall be paid on a pro rata basis by the drainage districts that are located in whole or in part within the proposed districts for which the confirmation election is being held. The commissioners court shall determine the pro rata share of the election costs for each drainage district and shall compute the pro rata shares so that the share for each drainage district is in the same ratio to the total amount of the election

costs in that district as the ratio of land in the drainage district to be located in the new district is to the total amount of land in that new district.

Amendment No. 3 - Benedict

Amend Amendment No. 1 to **S.B. 28** as follows:

(1) Add a new Section 57 as follows:

SECTION 57. (a) The management and control of the Brazoria County Drainage Districts No. 4, 5, 8, and 11 is hereby vested in the board of directors of those districts. In this section, "district" means the Brazoria County Drainage Districts No. 4, 5, 8, and 11.

(b) The board of directors shall levy a tax on all property subject to district taxation for the benefit of the district for the purpose of meeting the requirements of the district's bonds and providing for the district's maintenance and operating expenses.

(c) The tax rolls of Brazoria County shall be and constitute the district tax rolls for all taxable property within a district, and not later than October 1 of each year the board of directors shall levy the tax on all property within the district which is subject to taxation and shall immediately certify the rate of that tax to the tax assessor and collector of Brazoria County. The tax that is levied shall be collected on all property subject to district taxation by the assessor and collector based on Brazoria County tax values, and the tax shall be collected in the same manner and under the same conditions as Brazoria County taxes. The amount of the annual district tax may be included on the annual county tax statement mailed or sent out by the Brazoria County assessor and collector to those taxpayers owning property in both the district and in the county. The assessor and collector shall charge and deduct from payments to the district amounts for his services as may be agreed upon by the assessor and collector and the board of directors. Interest and penalties on the taxes paid the district shall be the same as for county taxes. The remainder of tax collections, after deductions of discounts and fees for assessing and collecting, shall be deposited in the district's depository and may be withdrawn as directed by the district's board of directors. All other income of such district shall be deposited in the depository.

(d) The board of directors shall be responsible for all funds received by the district, and it is not the duty of the county judge to countersign any warrants or checks, and it is not the duty of the county treasurer or the county auditor to perform any services for any district. Each district shall prepare all budgets, disburse all funds, account for the funds, have an annual audit, and do all other things required by law.

(e) If the Brazoria County Watershed Drainage District No. 3, Brazoria County Watershed Drainage District No. 4, and the Brazoria County Watershed Drainage District No. 5 are created, these sections apply to those districts.

(2) Renumber other sections of the bill accordingly.

Amendment No. 4 - Staniswalis

Amend Amendment No. 1 to **S.B. 28**, as follows:

(1) On page 12, line 16, strike "and" and substitute a comma.

(2) On page 12, line 17, between "district" and the period insert ", and must have been a resident of that district for the two years immediately preceding the date of the election".

Amendment No. 5 - Staniswalis

Amend Amendment No. 1 to S.B. 28 as follows:

- (1) On page 15, line 4, strike "\$50" and substitute "\$25".
- (2) On page 15, line 5, after the period insert "A director may not receive compensation for more than eight days in any month".

Amendment No. 6 - Staniswalis

Amend Amendment No. 1 to S.B. 28 on page 24, line 3, by inserting "during reasonable daylight hours" between "district" and "to".

Amendment No. 7 - Staniswalis

Amend Amendment No. 1 to S.B. 28 on page 20, lines 6-7, by striking "who resides or owns property in the district".

Amendment No. 8 - Staniswalis

Amend Amendment No. 1 to S.B. 28 by striking Subsection (a) of Section 40 and substituting a new Subsection (a) to read as follows:

"(a) After notice and hearing, the board may issue an order directing any person:

- (1) to remove an obstruction or structure existing at the time of or constructed after adoption of the district's plan if the obstruction or structure is not compatible with the plan; or
- (2) to make changes in an obstruction or structure constructed after the adoption of the district's plan to make it compatible with the plan".

Amendment No. 9 - Staniswalis

Amend Amendment No. 1 to S.B. 28 on page 17, line 5, by inserting "reasonable" between "the" and "compensation".

Amendment No. 10 - Staniswalis

Amend Amendment No. 1 to S.B. 28 by striking Subsection (b) of Section 40 and substituting a new Subsection (b) to read as follows:

"(b) A person may not place an obstruction or construct or alter a structure on land in a district if the obstruction or structure is not compatible with the district's plan and if no drainage certificate for the activity has been issued."

Amendment No. 11 - Staniswalis

Amend the Benedict amendment to S.B. 28 by inserting a new Subsection (c) to Section 43 to read as follows:

(c) Nothing in this Act shall be construed as prohibiting the normal functions of any state agency in the conduct of all powers of the state agency other than in drainage matters, within the districts created by this Act.

The amendments were read.

Senator Brown moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 28 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Santiesteban, Meier, Wilson, Kothmann.

MEMORIAL RESOLUTIONS

S.R. 175 - By Doggett: Memorial resolution for Hyder Joseph Brown, Jr.

S.R. 177 - By Glasgow, Farabee: Memorial resolution for Don McClatchy.

S.R. 183 - By Doggett: Memorial resolution for Mrs. Jane Allen Combs.

S.R. 188 - By Farabee: Memorial resolution for Dr. Harlan Steph.

S.R. 189 - By Farabee, Snelson, Harris: Memorial resolution for Mrs. Walter M. Priddy.

WELCOME AND CONGRATULATORY RESOLUTIONS

H.C.R. 18 - (Caperton): Congratulating the Sam Houston State University Lady Bearkat softball team.

H.C.R. 19 - (Caperton): Congratulating the Sam Houston State University golf team.

H.C.R. 31 - (Short): Congratulating the Lubbock Monterey High School baseball team.

H.C.R. 32 - (Short): Congratulating the Lubbock Estacado High School baseball team.

H.C.R. 6 - (Wilson): Urging state agencies to use Texas artists for design and artwork services.

H.C.R. 24 - (Wilson) Honoring the city of Killeen on the 100th anniversary of its founding.

H.C.R. 43 - (Vale): Commending the San Antonio Police Department.

S.R. 176 - By Jones: Extending welcome to Richard Earle Helmer IV, "Honorary Page" for the day.

S.R. 178 - By Glasgow: Extending congratulations to Leslie MacLean on her accomplishments.